Religious pluralism

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Religious Pluralism: Essential or Challenge to Liberal Democracy?

Abstract:
While religious pluralism is often regarded as a defining aspect of western liberal democracies, the mix of different religious and cultural identities has raised specific challenges for liberal democracies in Europe. Many religious communities, especially Muslim groups face criticisms of seeking religious exceptionalism within legal structures which are largely secular. This article reflects on the tension between the state’s commitment to upholding cultural diversity as a democratic good and the limits of social and legal pluralism.

Key words:
Law, EU, Muslim, multiculturalism, values, liberal democracy.

While democracy is not yet universally practiced, nor indeed universally accepted, in the general climate of world opinion, democratic governance has now achieved the status of being taken to be generally right.¹

While religious pluralism is often regarded as a positive, indeed defining aspect of western democracies, the mix of different religious and cultural identities has raised some unique challenges for secular liberal democracies. It has required us to rethink the limits of cultural pluralism and individualism for what sociologists and policy makers call ‘integration’ and ‘cultural cohesion.’ In recent years, in much of Western Europe, there has been at times a critical reaction to what is seen as exceptionalism for religious communities, notably but not exclusively, for Muslims. This tension has led to a rethinking of the state’s relationship to religious faith and the growing sense of political and social divisions which have been exacerbated by the recent challenges of migration from multiple conflicts parts of the Middle East and North Africa. Yet underneath all this, is the legitimate but existential question of what Europe herself stands for as a cultural project and as unifying polity. The emergence of Europe as a cultural concept, a unit with all its plurality and diversity, has recently undergone a profound scrutiny in the social sciences and humanities. As Hana Horáková writes, ‘In the

field of socio-cultural anthropology there has been a shift from anthropology in Europe to anthropology of Europe.¹²

In Western Europe today, despite for example the Catholic Church being a dominant religious presence in France, the Church of England the established Church in the UK, when we speak of societal norms and laws, it is widely recognised that legal and public structures are largely secular. On one level, this simply means that governmental institutions are separate from religious institutions and that governments should neither enforce nor prohibit the free exercise of religion on its citizens as the state recognises religious choice a matter of individual liberty. These principles are based on the norms of democracies where political liberalism prevails. Political liberalism is complex but based on broad claims of equality, freedom and state neutrality with respect to religious observance, for all its citizens. Here, the state is sovereign above all other institutions, but it also bears a moral commitment towards all its citizens, especially its minorities. This can mean that despite a person’s own faith practices, values or their religious affiliations, it is the state which to some extent decides the religious from the non-religious, the public from the private and the communal from the personal. In his definition of the modern democratic state liberal, Craig Hovey defines liberalism through the exploration of Rawlsian concepts of maximum justice and opportunity for all people:

Liberalism is a political philosophy that seeks societal stability and unity in the absence of shared conceptions of the common good. It is therefore regularly associated with contemporary discussions of religious and other pluralisms and especially, in our day, is connected to the anxieties that set in when moral convictions previously thought to be self evidently true and binding lose their obviousness. How then will a society composed of diverse individuals – people of various faiths and traditions-function for its betterment?³ Liberalism conceives of humans as individuals who enjoy relative freedom to organize their common lives. Beyond the definitions and limits of the nation state, law and governance, liberalism’s value lies in relating concepts of human dignity to happiness and human


³ Craig Hovey, 'Liberalism and Democracy' in Craig Hovey and Elizabeth Phillips (eds.), The Cambridge Companion to Political Theology, New York: Cambridge University Press, 2015, 197.
empowerment, integral to human flourishing; this view has captured our imagination and immersed itself in the global political and legal discourse. In fact after the collapse of the Soviet Union as the last threat to liberalism within Europe, the hegemony of liberalism is such that it would seem any resistance is unreasonable:

Today Anglophone political philosophy is generally conducted in the light of the perceived triumph of liberalism. That is, it typically proceeds on the assumption that it is unreasonable, if not irrational or pathological, to resist liberalism, whether as a mode of thought or as a social order.4

Such views are dominant in the socio-political paradigm of Western Europe and can be applied to the whole Euro-Atlantic political discourse. Conversely, with its emphasis on individual agency, among the many critiques of political liberalism is the recurrent issue that liberalism lacks depth advancing concepts of the individual over the human person. Liberalism posits the doctrine of the ‘unencumbered self,’ where the individual must remain ‘free and untrammelled’ whose autonomy is its supreme and inalienable right. The Scottish theologian David Fergusson echoes the tension faced in freedom and rootedness in some form of religious worldview:

It presents the individual as already valuing its autonomy prior to any other substantive moral commitments. In doing so, it denudes the self of the necessary resources for moral reasoning and decision-making. The individual of political liberalism is thus deracinated. She or he is no longer situated in a community or tradition of moral enquiry in terms of which judgements can be understood and practised. The shared goods and ends of human life are no longer built into the liberal individual’s initial moral situation. These can be selected and endorsed by an act of freedom, but for the unencumbered self it is hard to see on what basis reasons favouring one decision over another could be offered.5

Individualism and the rights of the individual are not the same. But the rights based discourse is often presented as the point in history where freedom has finally arrived. The state for its part is concerned with the defence of the right and not just the good according to John Rawls's

definition. Political concepts are based on plurality, equality under the law, diversity and mutual limitations. As Hannah Arendt writes:

A citizen is by definition a citizen among citizens of a country among countries. His rights and duties must be defined and limited, not only by those of his fellow citizens, but also by the boundaries of a territory, Philosophy may conceive of the earth as the homeland of mankind and of one unwritten law, eternal and valid for all. Politics deals with men, nationals of many countries and heirs to many pasts; its laws are the positively established fences which hedge in, protect and limit the space in which freedom is not a concept, but a living political reality.6

The States of Europe do not generally define ‘religion’ in their constitutions or other formal legislation, but, rather, leave it to the courts to determine whether something is ‘religion.’ While each State in Europe has its own national law affecting religion and these national laws also function in wider legal environments, there is general agreement that Christianity has for centuries influenced the idea and identity of Europe. The Lisbon Treaty of 2007 pays homage to the spiritual heritage of religion:

Drawing inspiration from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law

Confirming heir attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and of the rule of law,

Desiring to deepen the solidarity between their peoples while respecting their history, their culture and their traditions7

While it mentions the role and contribution of churches, like the draft constitution of 2004, the 2007 Treaty of Lisbon, does not specify which spiritual or religious heritage is inspirational.; indeed, Article 22 of the Charter of Fundamental Rights provides that the Union must respect ‘religious diversity’. It has been suggested that one reason for the deference of the EU to the principle that religion is best dealt with at the national level is that the EU lacks a strong cultural

identity of its own. In his excellent study exploring various European treatises, Norman Doe writes in acknowledging ‘religious diversity’ the EU show the `need to work with ‘religious pluralism’ and the growth of interaction between religions in Europe and beyond. Consequently, the value of religions, of their diversity-plurality, is known to the EU legal order. The decision on Specific Programme Cooperation accepts that ‘appreciation and understanding of differences between value systems of different religions or ethnic minority groups lay foundations for positive attitudes.’

Despite this expansive conceptual and legal paradigm, the lived realities of religious pluralism remain complex. It is fair to say that the UK, notwithstanding declining church membership, is still a largely Christian country, if by that we mean the dominant faith of the land and one which informs its cultural landscape. Institutional religion has declined as a cohesive force giving meaning and stability to communities or as Charles Taylor put it ‘religion has lost its public hold.’ But our calendar, our formal occasions, our legal system, our social and literary reference points, our cultural memory, are still largely rooted in the context of Protestant Christianity. Other religious traditions have been brought in through the process of migration and for the most part, it would seem that the multicultural experiment so to speak was about simply letting people be. The larger point that religion with all its complexities, its blurred borders, still continues to be a central feature of human life, giving shape and meaning to our existence, is often lost in the frequent media attention given to contesting whether religion is a force for good or bad in the modern world. Our conversations are often not so much about religion as a phenomenon but the perceived religious exceptionalism and how to protect the perceived secular public space. Here, religion is often seen as something which drags us back to an intolerant past, brings up images of the kind of God the west thought it had killed off, whereas liberal democracies are construed as being based on secular societal and political norms, which ground us in individual and protected freedoms and which pull us towards a hopeful future. And in many ways, one can understand why. Secularity as a process has been successful. The rise of democratic rule, the concept of civil society, the consciousness of human rights, and individual freedom, have all accelerated the growth of secularism.

Yet despite the relative strength of secularity as process, Islamic religiosity and visibility often poses a challenge. This is a view which has gained political and social momentum since the New York terrorist attacks of 9/11 and subsequent acts of terrorism. In

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recent years, the recent flow of refugees and migrants from the Middle East and North Africa, have reignited the civilizational debate about culture, religion and Europe’s Christian heritage. The speeches which resonate in many parts of Europe, invoke a nostalgia for what Europe once was. But they are seen by many as at best hearkening to an ideal rather than a reality of the past, thus divisive, even destructive to the peaceful continuity of the European project. For some the most urgent reason why action on immigration is required lies precisely in the rise of nationalist, populist, anti-immigrant, anti-EU parties. Many politicians and activists have a deep desire to curb the effects of political rhetoric and populist movements which see the influx of refugees and uncontrolled borders as quite simply a threat to European civilisation. In her closing speech of the two-day Front National Party conference in 2017, Marine Le Pen, proclaimed that that ‘we are at a crossroad…this election is a choice of civilisation’ in the face of ‘massive migration’. The structural dominance of sovereign states and nationalist priorities have resulted in various kinds of backlash against migrant flows often at the expense of humane or visionary solutions. Words such as traveller, migrant, refugee and displaced persons are often used interchangeably but they mean different things legally and politically. They have become intrinsic to the contested moral discourse around human dignity versus monetary resources challenging convictions about identity, race, social cohesion and belonging. This has also led to disputed concepts of good religion/bad religion, good migrant/bad migrant where religion, namely Islam is seen to have contributed to the contemporary political and social unsettling of Europe and the West.

These events and attitudes fuel the return to familiar historical tropes of pitting white, Protestant Christianity against a non-white Islam, essentialising Islam as the archaic and often unwelcome other of a politically open and benign, Christian, Anglo Saxon Europe. Islam’s beliefs and practices are too visible and awkward, and it doesn’t quite fit in with the moral demands and attractions of modern western life. And yet, in struggling to reconnect with a lost religiosity, powerful voices have spoken of Islam as continuing to offer Europe transcendental hope. Pope Benedict XVI spoke of Europe ‘losing its soul.’ His lament was for Europe’s lost Christian heritage, ‘Not only are we no longer Christian, we’re anti-Christian; so we don’t

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know who we are.’ And despite his critique of Islam, he notes that ‘only Islam is capable of offering a valid spiritual basis for the life of the peoples, a basis that seems to have slipped out of the hands of old Europe, which thus notwithstanding its continued political and economic power, is increasingly viewed as a declining culture condemned to fade away.\(^1\)

For others, anti-Muslim sentiment is both a racial and religious issue – both have become almost taboo subjects and yet, they are hidden within the ultimate debate around values. Today, it is not religious doctrines which ignite passions in our communal and interconnected life, but values. The terrorist attacks including the London bombings in 2005, were seen by many to be the result of a deep malaise amongst many second or third generation Muslims who felt no loyalty to Britain. This was seen as a failure of multiculturalism, a policy which broadly speaking refers to the ‘political accommodation by the state and/or a dominant group of all minority cultures defined first and foremost by reference to race, ethnicity or religion.’\(^2\) Indeed, in 2011, the former UK Prime Minister David Cameron commented that multiculturalism had failed, echoing Angela Merkel’s remarks earlier that year that multiculturalism had failed, completely failed, even though Germany had never adopted a multicultural policy agenda. If you don’t feel the UK is home, if you haven’t nurtured a sense of belonging, it is because your values need to change.

As Anne Norton writes in her book *On the Muslim Question* the ‘Muslim question like the Jewish question before it, is connected to fears for national and international security.’ She writes that ‘Whether they praised or blamed liberalism, whether they sought to advance to or to forestall democracy, Western philosophers saw the Jewish question as the axis on which these struggles turned. Modern struggles over faith and secularism, progress and loss, alienation and community, equality and difference were fought out on the terrain of the Jewish question.’ Today however:

The figure of the Muslim has become the axis where the questions of political philosophy and political theology, politics and ethics meet. Islam is marked as the preeminent danger to politics; to Christians, Jews and secular humanists; to women, sex and sexuality; to the values and institutions of the Enlightenment.\(^3\)

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Conversely, for many Christians who hope for a return of Christendom only a Christian Europe can accommodate and welcome Islam. When in 2018, the British singer Sinead O’Connor announced she was converting to Islam, the Christian theologian John Millbank wrote in defence of the West and its Christian heritage, ‘Houellebecq has it right. Liberals will embrace an authoritarianism to escape their own contradictions if it is respectably other and non-Western. She is a civilisational traitress. And has no taste.’ Political theology is increasingly being polarised as a theology of civilizational choices.

While such opinions and retorts make for interesting social media discussions, what most keeps religion present on the public and political radar, are the legal cases which reflect the tension between law, public morality and seemingly religious exceptionalism. The nature of religion is most usually elucidated in case-law. The following examples show that at least in the context of the UK and Western Europe generally, a nation's moral consciousness is far less grounded in religious authority than it was only a generation ago. But the state is not morally neutral, it has its own commitments to equality and rights. Firstly, the vexed issue of female clothing and the Gerin report. What is acceptable clothing in western terms assumed an interesting twist in the Gerin Report of 2010 when it was claimed that the French ban on the full face veil did not go against the freedom of dress because western civilisation had no such things as ‘clothes for the face. The Gerin Report emphasised the French republican values of liberty, equality and fraternity and had as one of its central arguments that the face veil eliminates the possibility for individual expression, thus disabling its wearer from being an equal in society. On this point the members of the Commission were clear:

The face veil denies all individuality and thus all dignity to the one who wears it, whether she does so voluntarily or not. But the equal dignity of all human beings is the philosophical, even anthropological foundation of the principle of equality in our Republic.

The discussions on veiling in Europe are now immersed in complex ideals of freedom, femininity and faith. They are also about the shared public space. The political philosopher Blandine Kriegel who worked for President Chirac argued for the social contract, ‘We believe in laicite because we have to place ourselves in the public space, by abstracting from our

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individual characteristics, from where we came, our roots. This is the idea of the social contract. Thus, what she is implying is that although people can come with different traditions and histories, the movement should be from pluralism to unity through consent. The public space should be neutral with respect to religion. Prime Minister Jean-Pierre Raffarin defended the ban on explicitly religious symbols in public spaces in his address to the French legislature but also adding that France was the `old land of Christianity' and showed his commitment to the inviolable principle of laicite. In the case of France, he added religion cannot be a political project and `For the most recently arrived, I'm speaking here of Islam, secularism is a chance, the chance to be a religion of France.'

More recently in 2019, the Flanders region of Belgium, the region that is historically home to most Belgian Jews, outlawed the ritual slaughter of animals. And a similar law came into place in August in Wallonia, the French speaking south. Defenders of the law argue that is motivated purely by animal welfare, that this law does not undermine religious freedoms and that those who observe ritually slaughtered meat, can still buy such slaughtered meat in different parts of Belgium. But for many Jewish and Muslim citizens, this ban reflects a rising anti Jewish and anti Muslim trend and the limits of social pluralism. The legal decisions as to which minority will win in the perceived battle between religious minorities and animal welfare organisations, are based on making choices about preferred, cultural values.

It is worth pointing out that for most western Europeans, the word which most evokes anti liberalism is *shari`a* because it sees *shari`a* as the ultimate challenge to liberal values rather than intrinsic to various forms religious observance. The problem with starting any conversation on *shari`a* is exactly where do you start? Misleadingly but commonly translated as Islamic law, the term has become synonymous with penal law, stripped of its broader ethical dimensions and the fluidity of juristic reasoning. *Shari`a can be both* a lived reality with all its internal complexities as well as a historical intellectual enterprise. In western public and scholarly discussions, the term is simplified and often locked into important but poorly thought through, even contemptuous discussions on particular modes of punishment and women’s agency. It goes down the positive law route, coded and defined as the West understands law. But the reality is that a word which for centuries belonged to the colonial other, considered

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low, even dead tradition is now an observed reality in Europe. For many it represents an audacity, a hostility or apathy to everything the Enlightenment project has struggled against. Envied by some, despised by others, it represents a faith without boundaries.

In popular discourse *shari'a* is an all-encompassing term which is more akin to worship, ritual and custom, than law in any normative sense, and thus more susceptible to a variety of practices. In fact *shari'a* should not have the word 'law' next to it as terms such as Islamic law and Muhammadan law were colonialist constructions and do not illustrate the complexity of *shari'a* as a conceptual and lived reality. Essentialising Islam continues through the erroneous perceptions of *shari'a*. Firstly that all Muslims share the same understanding of *shari'a* which is reduced simply to rules. In fact, rituals around fasting and prayer, ablutions and slaughter, as well as observance of aspects of marriage and divorce all fall within the structures of *shari'a*. and the boundaries of custom, ritual and legalism are often blurred. The question 'What does *shari'a* say?' is a misleading point of inquiry because it shows how superficially *shari'a* is perceived as the term falls within modernity’s definitions of law and religion.

However, issues of religious conscience appear in all religious groups and can often result in drawn out legal disputes between individuals and the courts. One such example is the story termed the 'gay cake' case. In 2014, a Christian couple, Daniel and Amy McArthur, who run the Belfast-based Ashers Baking Company, told the gay rights activist Gareth Lee they would not make a cake with the words 'support gay marriage.' The owners of the bakers defended their position on the grounds of their Christian beliefs. When Mr Lee sued Ashers on the grounds of discrimination, a long running legal battle began debating the rights of both parties. The initial findings by Belfast County Court in 2015 concluded that the bakery had broken political, religious and sexual orientation discrimination laws. But in 2018, the Supreme Court overturned the decision. Supreme Court president Lady Hale said the couple did not refuse to make the cake because of Mr Lee's sexual orientation. She said, 'Their objection was to the message on the cake, not to the personal characteristics of Mr Lee or anyone else with whom he was associated.' She went on to say, 'The bakers could not refuse to supply their goods to Mr Lee because he was a gay man or supported gay marriage, but that is quite different from obliging them to supply a cake iced with a message with which they profoundly disagreed.' Lady Hale said the ruling was not in any way to diminish the need to protect gay people from discrimination,’ but that what happened in this case was not discrimination. The case distinguished between the rights of the individuals and protection of religious conscience.
The owners of the bakers also insisted that Mr Lee was welcome to return to their bakery, saying, ‘We're particularly pleased the Supreme Court emphatically accepted what we've said all along - we did not turn down this order because of the person who made it, but because of the message itself.’18 Such cases amplify accusations of religious exceptionalism against many Christian groups. Christians groups in turn often feel that their rights are too easily trampled upon in a society where liberalism only wishes to tolerate liberalism, leaving religious conscience struggling to manifest itself on various matters of private and public interests.

The liberal nation state has not really been able to flatten the public space and religious group have always relied or created exceptionalism to define themselves from majority rule. However defined, pluralism has always been about the tensions of self-determination amongst minority and majority groups. Even as far back as the 8th century, under the growth of Islamic law and governance, many Christians, who actually were the majority population, remained determined that their religious and cultural identities remain distinct. In his recent work *Between Christ and Caliph*, Lev E. Weitz examines the multi-confessional society of early Islam through the lens of shifting marital practices of Syriac Christian communities. Despite the growth of Islamic law and governance from the 7th century onwards, Syriac Christian bishops created new laws to regulate marriage, inheritance, and family life. The bishops banned polygamy, required that Christian marriages be blessed by priests, and restricted marriage between cousins, seeking ultimately to distinguish Christian social patterns from those of Muslims and Jews. Their desire was to be a community apart while still maintaining a place in the Islamic social order. Household life was tied to religious – this inter-religiosity lay at the heart of the medieval Islamic empire. Pluralism has always been about managing societal and identity tensions.19

Today, the modern nation-state has the power to penetrate all layers of society in a way simply incomparable with anything in the pre-modern period. But liberal democracy requires pluralism because it is both strengthened and challenged by diversity – this is not easy but in our globalised and on the move world, we need to find ways of legally and socially living together. If not, populism in all its forms then thrives on conflict, on the perceived fracturing

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of civilisations within and across the boundaries of values. While liberal democracies make give rise to concerns about civilizational choices, they themselves are now seen to be under strain. Their commitment to religious pluralism as a social good, even if not necessarily as a moral worth, needs more rigorous defence. This is partly because the liberal state has another concern – constitutional commitment to equality for all. The rise of populism poses a threat to this commitment. While populism remains a politically contested concept, Jan-Werner Muller argues that populists are always anti pluralist because populism is wedded to neither constitutionalism nor liberalism. He argues that populism rides on the ‘broken promise of democracy’ that our social and political framework always favours one group over another and that ‘ordinary working people are being left behind’ by the privileged elite. This is its biggest appeal and a testament to a certain failure in politicians who have failed to appreciate growing social unrest and frustration.

Thus, populism often is accompanied by ‘nativism’ and hostility to immigrants and immigration. A commitment to real pluralism requires courage and humility in equal measures because it means making difficult choices about the true worth of coexistence and the sacrifices required. It is easy to argue that multiculturalism does not have any particular value or moral weight. But any critique of antipluralism must recognise that a denial of diversity effectively means denying the status of certain citizens as free and equal. As Müller writes:

> These citizens might not be excluded officially, but the public legitimacy of their individual values, ideas of what makes for the good life, and even material interests are effectively called into question, and even declared not to count. As John Rawls argued, accepting pluralism is not a recognition of the empirical fact that we live in diverse societies; rather it amounts to a commitment to try to find fair terms of sharing the same political space with others whom we respect as free and equal but also as irreducibly different in their identities and interests.20

We all make moral choices about how to live as communities within society, and to recognise others as communities who share the same space. Pluralism is both an ideal and a process. In an age of soundbites, hashtags and now fake news, we need to stretch a sympathetic imagination to meet the cultural challenges of our time. And these challenges however polarising, will not be resolved by harsh words and clashes which have increasingly informed the politics of our time. Our politics reflects our ethics to a certain extent. Liberal democracies

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can lead to various ways of living because they allow freedom to develop a desired vision for your life and the society around you. Words matter across the political spectrum because peace, justice and community are all fragile. There is no room for complacency but neither it seems is there any alternative to coexistence