THE PROBLEM OF RELIGIOUS DIVERSITY

European Challenges, Asian Approaches

Edited by
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Religion and Religious Diversity
Challenges Today

Anna Triandafyllidou and Tariq Modood

Introduction

Religion and religious diversity appears to be one of the toughest diversity challenges that European societies face today in their search for identity, equality and cohesion in an increasingly globalised world. Indeed religion often appears to be a stronger identity register than national or ethnic identity and belonging. It has as such joined previous concerns with racism and ethnic prejudice leading to the acceptance that religious diversity is perhaps one of the most important dimensions of discrimination today (Modood 2013).

Old paradigms of republicanism or multiculturalism seem to be in crisis but a new ‘third way’ between laïcité and state religion, which combine national and religious identity into a plural mix (where several ethnic and religious minority identity registers can exist in multiple layers within the same state’s citizenship and system of institutions), is struggling to emerge.

It is in this uncertain context, where international jihadist terrorism terrifies many European citizens but where also important grassroots initiatives of transnational solidarity arise, that scholars and policy makers reflect on the best ways to institutionalise religious diversity in European liberal democratic societies. Indeed the question is posed whether in accommodating religious diversity one ought better to equalise upwards (notably more religion in public life for both majorities and minorities) or equalise downwards (moving towards a more radical secularism). And if the former is the way to go, what are the obstacles that a more egalitarian religious pluralism would face in European liberal and moderately
Secular societies? Would such problems come from minority groups and their special requests for accommodation or from powerful majority churches that might find it difficult to accept such a pluralism or feel that their historically privileged position is threatened? Or, perhaps the difficulty in exploring equalising upwards lies with those who oppose the presence of religions in public life, let alone an increase of it? Are all minority religious groups equally easy or difficult to accommodate or is there today in Europe a special public antipathy or mistrust towards specific groups?

While the question of accommodating religious diversity has been at the forefront of the public debate on immigration and immigrant and ethnic minority integration since the 1990s, it is posed today with renewed urgency. The reason for this urgency is to be found in the re-emergence of religiously inspired, jihadist terrorism in Europe and elsewhere, on the one hand, and the rise of populism and the Far Right on the other. It looks as if European societies have miserably failed to accommodate and incorporate some immigrants and their offspring, thus leading some marginalised youth that is both out of education and out of employment to seek in jihadist terrorism a new source of belonging and self-affirmation. In addition, a rise of populist parties across Europe (Mudde 2007; Mudde and Kaltwasser 2012) and particularly of the Far Right is registered in many European countries. Such parties tend to blame migrants and minorities for the decline of the welfare state and the increase in unemployment, disregarding the lack of investment in growth and social services.

This book seeks to break new ground by investigating what we can learn in Europe from policies and practices in the Middle East and Asia where religious plurality and the integration of religion in the public space is the norm rather than the exception. Contributions to this volume investigate the meaning of secularism or accommodation of religious diversity in these different European and ‘Eastern’ contexts and consider whether these norms and practices can offer useful insights and examples of policies to be adopted in Europe. This volume is organised into two parts. The first part – composed of five chapters – focuses on analytical and normative issues involved in the management of religious diversity, discussing the type and degree of secularism or the appropriate dose and form of religion in politics that is fit for addressing the challenges of religious diversity that contemporary Western societies face. The
chapter by Triandafyllidou discusses what is the place of religion in today’s world, how it is intertwined or indeed distinct from national identity. The chapters by Modood and Mahajan investigate what can be the basis of a secularist accommodation of religion in politics, and for integrating religion in public life on the premise that religion (and religious diversity) is a quintessential part of social life and that it cannot be asked to retreat from politics or the public space. They offer alternative yet complementary views on whether we can build respect for diversity into existing forms of moderate secularism (Modood) or whether it is best to recognise that the sensibility and practice of living with difference, built from the ground upwards and evolving over time, as in India, cannot be captured by the principles and institutions of secularism (Mahajan).

Ramadan and Foblets discuss critically the governance of religious diversity in Europe looking at how it is addressed in the public space, but also how domestic legal systems grant stronger protection to mainstream/majority religions leaving it up to courts to apply human rights standards when minority religious groups turn to them for protection and recognition. While Foblets points to the weaknesses in legal protection for minority faiths, she believes that judges can respond constructively and creatively but they are in some need of education on the nature of the religions and issues in question. Ramadan, however, insists that secularism as a legal framework is inadequate to institute true equality across diversity as legal equality is standardly undermined by problematising the presence of new groups with distinctive practices, such as Muslims, through prejudicial attitudes and discourses. Hence a genuinely egalitarian approach has to focus on these prejudices and the symbolic understandings of nationhood, which defines who ‘belongs’ and who does not, and also the socio-economic inequalities which support this ‘superstructure’. He thus argues for a holistic approach, focused on education, civil interactions and the national imagination as much as on the state or law, in order to achieve what he calls ‘inclusive neutrality’.

If Part I identifies the key challenges in European contexts, the second part of this volume discusses the experiences of countries in the Middle East, Asia and Oceania in their governance and accommodation of diverse religious communities within a single state. Our contributors offer their analytical insights on the modes of governing religious diversity implemented in Southeast Asia.
and Oceania, including in some of the world’s largest democracies (such as India or Indonesia) where religion is respected as an important dimension of social and political identity and as an institution. They also look at countries in the Middle East which have struggled with important religious divisions. These chapters seek to assess whether respect and acceptance of religion as one dimension of public and political life can provide for a more appropriate basis for the governance of religious diversity than European or North American models of moderate or complete separation of church and state. Thus, Alfred Stepan offers comparative insights from Indonesia and Senegal, Zawawi Ibrahim and Ahmad Fauzi Abdul Hamid analyse critically the case of Malaysia, Rochana Bajpai reflects on the Indian secularism model as represented in the constitutional debates at the time of its formulation, while Geoffrey Brahm Levey discusses the case of Australia. Turning to the wider area of the Middle East, Raphael Cohen-Almagor questions the exclusion of religious diversity in Israel from public life and state institutions, while Haldun Gülalp critically investigates the institutional structures of Turkish secularism from theoretical and historical perspectives. While some of these countries exhibit a normalcy about religious diversity and states that positively institutionalise diversity, they also reveal countries in which institutionalised religious majoritarianism is on the rise and minorities anxious and secularists in retreat.

The book concludes with two afterwords by Joseph H. H. Weiler and Bhikhu Parekh who comment critically on what is the special contribution of non-Western perspectives to the governance of religious diversity in Europe and how we can make the most of them.

The European context

Religion and religious diversity appear to be one of the toughest diversity challenges that European societies face today. Muslims are the largest immigrant and post-immigrant (non-indigenous) group in Europe that is perceived to raise important challenges of cultural and religious diversity. European Muslims cannot of course be considered as a uniform group in any respect, as they come from different countries, live in different countries, speak different languages, adhere to different versions of Islam, and are more or less moderate in their beliefs and claims (Triandafyllidou 2012).
Despite this multilevel difference within the Muslim communities of Europe, they are often portrayed in the media and policy discourses as a single community, as a population that shares common traits and that can be dealt with by the same type of policies – or indeed that cannot be integrated or assimilated in several countries for the same type of reasons.

Indeed since the 1990s there is a tendency across Europe amongst some Muslims and others to highlight their religious identity and for societies to label ethnic minorities and immigrants in religious terms rather than in relation to their ethno-cultural background or social roles in society. This tendency, whereby Muslims in particular now are seldom categorised as Turks, Moroccans or Pakistanis (or as students or workers), exists in several European countries, where debates over integration and toleration of differences invariably centre on Muslims, and where religion is often associated with potential conflict. Public discussions tend to take place in an ‘us–them’ framework: Islam is increasingly constructed in opposition to Western (British, Dutch, Swedish, Spanish, French, Italian, and so on) values of democracy and equality.

Since the Arab Spring in 2011 but particularly so during the last couple of years Europe has been shaken by acts committed in the name of religious extremism. The Arab Spring appears to have imploded and together with it the promise of a new paradigm of religion in politics as professed by the youth protesting in Egypt, Tunisia and Syria in 2011–12. The quest of Arab Muslims for more democracy, more economic development and more religion in the public sphere had raised hopes that there is an alternative model for the governance of religious diversity and the management of religion in the public sphere to be developed in the Arab world (Ramadan 2012), that would go beyond secularism as practised in Europe and North America.

However, these hopes, if not abandoned, are relegated to a distant future as the region has gone up in flames and as jihadist terrorism and intra-Islamic fighting have taken the lead, over any sense of democratic and peaceful reform. In addition to these negative developments in the Middle East and North Africa, Europe has been shaken by the extremist violence of the *Charlie Hebdo* killings in Paris in January 2015 and by the recruitment of young European Muslims in the lines of the so-called Islamic State (ISIS). Indeed this tiny albeit dramatically visible part of European Muslims (some
of whom are second generation migrant youth of Muslim origin and others are young converts) who have joined the ISIS forces in Syria and Libya to fight a jihadist war (estimated at 3,500 by recent reports) are seen to testify to not only a failed socio-economic integration of second generation youth but also to a failure in governing religious diversity in Europe.

The extreme choices of these young people are seen by some to support earlier allegations that Muslims are not fit (sic) for Western liberal secular democracies. They also seem to suggest that national and ethnic identity has lost its power of providing a sense of belonging for some young Muslims. Those recruited by ISIS do not feel attached to their parents’ country of origin or even their parents’ religious traditions and norms (Roy 2003, 2015). Majorities appear unable to understand what has gone wrong and why this marginalised youth turns to religious extremism and violence.

This book offers both an analytical reflection on what is the normative basis for governing religious diversity and a sociological reflection on what can be viable forms of religious diversity governance that build rather than erode social cohesion. Thus, while our analytical and theoretical reflection is imbued by Western norms of liberal democracy for instance, our inquiry goes beyond Europe, looking into Southeast Asia, Australia and the Middle East for alternative forms and rules of governing religious diversity.

We first explore whether religious diversity challenges can be best addressed through a stronger or weaker role for religion in public life. We thus challenge the dogma of secularism (more or less moderate?) as a quintessential ingredient of a liberal democratic society (see also Stepan 2000). We seek to think creatively and outside the box in what can be forms of moderate political secularism that allow for majority and minority religions to coexist in reciprocal autonomy with the state, and with an active participation of religious institutions in the governance of welfare and in public life. In probing this version of moderate secularism we take advantage of different legal, religious, theoretical and political science perspectives.

We question whether secularism should be seen as a complete (or less complete) form of separation of church and state or a form of twin toleration and mutual autonomy. We seek to distinguish secularism from atheism and consider how European societies can forge a sense of multi-religious legitimacy that allows for a participatory
co-governance of religious diversity within liberal democracy. We also question how religion relates to national or ethnic identity and whether the two tend to function as substitutes, as mutually reinforcing, as overlapping but independent or as simply multiple layers of diversity that need to be governed through separate institutions.

Taking stock of a critical inquiry of the experiences of different countries in Europe, Asia and Oceania, we aim thus to provide answers to the sociological, political and normative challenge on how to govern religious diversity in Europe today.

**Secularism: Old models and new challenges**

Historically, at least in the West, religion and politics, church and state have enjoyed various linkages. These began to be reduced in the nineteenth and twentieth centuries. The long-term origins of this movement can be traced back to the Reformation. Initially, the linkages between religion and politics became more intense as religion became the basis for rebellion, civil war and international conflict for more than a century. The Treaty of Westphalia (1648) is marked as the moment when it was recognised that peace in Western Europe was only possible if each country was allowed to have an official state religion while at the same time desisting from persecuting dissenters and minorities. The normalising of state religions was the opposite of secularism but it established that states had a right to regulate religion within their borders. Secularism proper emerges with the American Revolution (1776), which led to the disestablishment of a state religion in the name of religious freedom; and the French Revolution (1789) and the ideal of freedom from religion, at least in the public sphere. The latter idea became part of socialism, especially revolutionary Marxism–Leninism, which legitimised the suppression of religion, and of the Turkish state founded in 1922. The latter’s approach to modernisation involved control and utilising of Islam rather than a Communist eradication of religion. Most of Western Europe, however, followed a gentler path, neither the strict state–religion separation of the US, nor the denuding of the public sphere in the manner of laïcité, let alone the Soviets. In Western Europe, state–religion connections persisted but they were gradually lessened as on the one hand churches had less influence on political affairs and, on
the other hand, disabilities against Christians of the non-dominant denomination and against Jews were relaxed and finally abolished.

European powers took these secularist ideas and practices with them as they instituted global empires. Anti-colonial movements included the radically secularist, as in the case of Mao in Communist China, but also resistance to secularism. Gandhi, for instance, infused Indian nationalism, especially at the level of the masses, with an ethical or spiritual Hinduism or religious pluralism. Mohammed Ali Jinnah responded with a nationalism specifically designed for Indian Muslims, which led to the creation of Pakistan in 1947, the first modern state based on a religious identity. A year later, the second such state, Israel, was founded. This counter-secularist trend of the oppressed could be said to reach its apoee in the Iranian Revolution of 1979. Led by a cleric, the Ayatollah Khomeini, it was the complete repudiation of the Westphalian idea that the state should assert its authority by choosing and regulating an official religion. Khomeini instituted the doctrine of the vilayat-i-faqih, that the supreme religious authority (himself) should be the supreme state authority, with a veto over the decisions of parliament and government. This was a religious revolution based on Shi’a Islam which was the mirror opposite of the Western progressivism which assumed that modernity meant the fading away of religion from human affairs and emancipation meant the overthrow of religious authority. From there on it has seemed to some Western observers that there has been a ‘return of God’ or a ‘worldwide rise of religious nationalism’ (Juergensmeyer 1996).

At the same time scholars in the West started pointing out that religion in the West had not ceased to be ‘public’ or political but was actively to be found in, for example, the institution of the welfare state (Anglican Archbishop William Temple having invented the term ‘welfare state’), especially through the influence of Catholic social doctrine in Christian Democratic parties and anti-war movements, in particular in relation to nuclear weapons (Casanova 1994). From the 1970s organised Christian movements became powerful in the American Right and more recently Muslim identity politics has become a concern for many in Western Europe (Joppke 2015).

Theorists have reflected these developments. A post-colonial anti-secularism in India has characterised secularism as a Western, not universal, idea arising from Western problems (such as the pre-Westphalian wars of religion) and imposed globally through
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Colonial states and Western cultural imperialism (Nandy 1998). Talal Asad – who can perhaps claim to be the founder of the new secularism studies in the Western academy – has taken this even further. He argues that the very concept of religion as a bounded, legally tolerated and regulated activity is an invention of Western elites, first imposed on Western societies and then imposed on the rest of the world (Asad 1993, 2003). Indeed, there does seem to be a point here. While philosophers, scientists and artists define what is and is not philosophy, science and art respectively (even where that is internally contested within these activities and changes over time), yet, at least in the modern West, the state and political movements are involved in defining and regulating what is and is not religion. If relations between the state and the economy are a defining question of high modernity in the West, its predecessor question – the question of early modernity – is that of the relation between the state and organised religion. It is a question which by the third quarter of the twentieth century seemed more or less settled in the West but which re-emerged towards the end of the twentieth century.

Liberal theorists have at least in part accepted this charge of secularist domination and that such domination is not merely a political ambition but built into the very concepts of liberalism. John Rawls, the leading liberal philosopher of the last half century, had in his early work expounded a purely rational conception of justice but towards the end of his life felt it necessary to revisit the concept of public reason to show that it was not ideologically secularist and accommodated religious voices in the public square (Rawls 1997). Jürgen Habermas has engaged in similar revisionary accommodation and has described the current epoch as ‘post-secular’ (Habermas 2006). By ‘post’ he does not mean it as in ‘post-feminism’ or ‘post-racial’, something that we have gone beyond and left behind. Rather, his ‘post’ is ambiguously suggestive of a new phase of the secular (here the ‘post’ is as in ‘postmodern’ and as in ‘post-colonial’), which emphatically means we have not gone beyond the epoch marked by the suffix. Charles Taylor disavows the vocabulary of ‘post-secular’, preferring to describe the relevant period of revision as one of rethinking secularism as he is clear that ours is ‘a secular age’ (Taylor 2007).

Europe, especially Western Europe, the original home of secularism, secular polities and decline in belief in and scope of religion,
shows no sign of reversing the long-term fading away of Christianity. Many Europeans are happy to think of their countries and their continent as post-Christian. The rethinking of secularism in Europe is largely due to the fact of religious diversity in a context of pro-diversity sensibilities and ethics rather than a reversal of previous declines. Europe has a number of church–state models: state religions in the form of weak establishments as in England, Denmark, Norway and Finland; churches as legal corporations working with the state as publicly funded partners, most evident in Germany; a French regime of laïcité in which organised religion is regarded as an interloper in public affairs; a powerful and influential Catholic church, albeit distinct from state structures as in Italy, Ireland and Poland (for alternative typologies, see Koenig 2009; Madeley 2009; Ferrari 2012). Yet, from their different starting points and in their own ways they face the same broad question: how to adapt existing church–state relations and norms of secularism to an extra-Christian religious diversity that the continent has not known before. This is the question that this book addresses and it asks if our thinking on this European question can benefit from learning about the experience elsewhere.

Contents of this book

The first part of the volume starts with Anna Triandafyllidou who points to the emergence of religious affiliation as the main fault line along which people are divided in Europe. She points out that unlike the 1980s and 1990s that were shaken by ethnic and nationalist claims (including the Basque and Northern Irish terrorism, the war in Yugoslavia, concerns about the protection of ethnic minorities in the then newly independent Central and Eastern European countries) the twenty-first century has seen the emergence of religion as a politically and culturally important affiliation that needs to be accommodated in European, moderately secular and liberal societies. Thus, while ethnic and national minority claims for more political space and independence are channelled through national institutions, for example the process of devolution in Britain and the Scottish referendum, or through international arbitration (e.g. the EU Roma Strategy, or the OSCE Ljubljana principles), the religious claims of minorities are seen to pose the most difficult challenge because they are perceived to be against the very nature
of secular and liberal European democracies. This is paradoxical as religious minority claims do not challenge national sovereignty nor territorial integration and actually could be accommodated in line with the path followed in each country in earlier times, to make space for native religious minorities. Indeed European societies are much less secular than they often portray themselves to be (several countries have recognised official religions, most countries have religious education integrated in their national education system, and many allow or support religious schools, as well as offer support to religious organisations).

Triandafyllidou argues that actually religious and ethn-national divisions are to be read within the same wider framework of post-1989 Europe, globalisation, regional integration and the liquidity of late modernity. Thus the two divisions operate in parallel and often intersecting lines (when national (majority) or ethnic (minority) identity includes a strong religious element). Their main function is actually the necessity to create a political and cultural Other that would make European identity meaningful at the global level and at the same time would provide for some national political and cultural anchoring in an uncertain and fluid world. In other words, both national and religious divisions are old forms of ‘solidity’ that are re-emerging. While religion and particularly Islam is more ‘appealing’ as a Significant Other that creates unity within Europe (and the West writ large), nationalist politics offer more tangible and secure answers of political control and stability. At the end of the day, Muslims are functional to both as they provide the necessary internal and external Other. Just like Communists in the 1950s and 1960s were both an internal and external threat, today Muslims are the fifth column within and a threat to the world stability and prosperity at the international level. Fighting Al Qaeda or ISIS gives NATO a mission and the USA a role in the world while discussing how Islam is detached from modern reality and ethical dilemmas that people face today, and detracts attention from similar dilemmas that dominant Christian denominations also face.

In Chapter 3, Tariq Modood focuses on multiculturalism and moderate secularism and starts by explicating the relationship between a multiculturalist approach to diversity and moderate secularism in Europe. Modood argues that what is often talked about as a ‘crisis of secularism’ is, in Western Europe, quite
crucially to do with the reality of *multiculturalism*, notably of a *multiculturalist approach to religious and cultural diversity*, which entails that equality must be extended from uniformity of treatment to include respect for difference; recognition of public/private interdependence rather than dichotomised as in classical liberalism; the public recognition and institutional accommodation of minorities; the reversal of marginalisation and a remaking of national citizenship so that all can have a sense of belonging to it. Modood suggests that equality requires that this ethno-cultural multiculturalism should be extended to include state–religion connections in Western Europe, which he characterises as ‘moderate secularism’, based on the idea that political authority should not be subordinated to religious authority yet religion can be a public good which the state should assist in realising or utilising. The chapter goes on to discuss three multiculturalist approaches that contend that the *multiculturalising* of moderate secularism is not the way forward. One excludes religious groups and secularism from the scope of multiculturalism (Will Kymlicka); another largely limits itself to opposing the ‘othering’ of groups such as Jews and Muslims (Yolande Jansen); and the third argues that moderate secularism is the problem not the solution (Rajeev Bhargava).

Responding to the perplexities raised by the ways in which religious diversity is framed in Europe today, Gurpreet Mahajan offers an alternative perspective based on the Indian experience. Mahajan argues that examining what kind of moderate secularism can provide the best framework for managing cultural and religious diversity can be misleading, as moderate secularism is a necessary but not a sufficient condition for the task at hand. Reflecting on aspects of the Indian experience the chapter first of all suggests that we might at best work towards creating an environment in which observance of religious differences and diversity are more likely to be accommodated, for the question of accommodating religious practices can never be settled entirely. An understanding of the other, along with a more historised picture of community and its practices, are enabling conditions towards which we must aspire if we wish to accommodate differences. At the end of the day one needs to inculcate an ethic of responsibility that has the possibility of factoring in the other while determining what is appropriate and desirable.
Against this backdrop, the chapter by Mahajan develops three inter-related arguments: (1) the framework of secularism by itself cannot address the different kinds of claims that are coming from religious communities in Western democracies today; (2) a moderate form of secularism is certainly preferable, and it can co-exist with a commitment to diversity. Unlike the more rigid form of secularism that insists on complete separation of religion and state, moderate secularism can make some space for religion in the public domain; however, it too is not enough by itself for accommodating and valuing religious and cultural diversity; (3) accommodating demands that come from religious minorities requires that we go beyond the framework of secularism and value religious diversity. It requires us to approach matters of religion differently and recognise that the language of choice misunderstands the nature of commitment invoked by religious practitioners. Reflecting on the case of India, the chapter argues that it is the recognition of religious diversity and the priority accorded to protecting that diversity which has made a crucial difference; without the latter, moderate Indian secularism would not have yielded the observed results. Modood, then, drawing on an Anglophone understanding of political multiculturalism, and Mahajan drawing on the established ways that Indians have accommodated and normalised a respect for religious diversity, point to different ways of centring diversity in contemporary political modes of secularism.

In the next chapter, Tariq Ramadan argues that today’s secular and pluralistic Western society must go back to the basics of what secularism is or was intended to be. Secularisation is a wide-ranging dynamic that has assumed a diversity of institutional forms depending on individual countries and societies, their respective histories, cultures and collective psychologies. Secularism influences how power is distributed at the state level, as well as between and within the public services and the social institutions of a given country or society. Given the emerging Muslim presence in the West, however, secularism has developed an ideological edge, maintaining some features of organised religion while redefining itself and even adding new aspects that can be likened to dogmatism. Thus secularism no longer refers simply to the separation of powers or to established legal frameworks binding on all citizens, but to informal perceptions, and – in some cases – non-verbalised understandings. Seen from the standpoint of these non-codified
parameters, Muslim visibility has emerged as a ‘threat’, as a sign of ‘non-integration’ or of ‘not-belonging’. Ramadan argues that if our pluralistic societies are to achieve a viable secularism, we need to agree objectively on some common denominators, and set aside ideological considerations, subjective perceptions and informal representations or misrepresentations. Open public space, which is the essence of any secular society, requires a normative set of notions and an agreed-upon legal framework to establish rules that do not grant privileges to any specific religion. Its basic principle is to secure the same rights and duties for all of that society’s religious communities. Thus Ramadan argues we need a clear legal and institutional framework that protects diversity, including visible diversity with regard, for example, to the presence of churches, synagogues and mosques; or with regard to dress and religious practices. Several factors, ranging from the role of the state, the nation and public education, as well as to the management of ‘neutrality’ and the exercise of proactivity, will prove essential in the consolidation of a secular and pluralistic society.

In Chapter 6, Foblets addresses the meaning of equality today in relation to identity, specifically how religious identity can best be conceptualised in the space between justifiable differential treatment and discrimination. Historically, freedom of religion and belief has been among the best protected human rights in Europe. In practice, however, the form this protection takes is at least as varied as the histories of the various countries: a surprising diversity runs through the regulations and policies that legislatures and judiciaries have produced over time. But it is not only history that influences the approach to religion and belief and their protection under state law. More recently, new developments that seriously question the relationship between (state) law and religious identity are playing a role across Europe: on the one hand, there is the continuing secularisation of societies, which diminishes the authority of traditional churches; on the other hand, new religions and convictions bear witness to the resurgence of belief. Strikingly, law in most European countries today – both the legislative frameworks in place and the case law – has an ambivalent relationship to this dual development: policies and lawmakers are very reluctant to develop a new understanding of religious identity and its protection, with the effect that mainstream/traditional/majority religions in many cases continue enjoying a protection – rooted in
history – that is either being denied or is not as easily granted to new religions and non-faith-based convictions. This ambivalence, Foblets suggests, produces a number of thought-provoking effects. One such effect is that, in practice, religious discrimination is more easily perceived and acknowledged as impermissible within the context of disputes involving mainstream/traditional/majority religions than is the case for other religions or beliefs. Another effect is, paradoxically, over-protection of religion. This in turn invites strategic litigation: religion is turned into an instrument that provides legal grounds for claims that would otherwise not be granted. One could speak of the ‘religionisation’ (giving religious meaning) of claims that are brought before courts. The concluding part of this chapter explores the conditions that are necessary to take account of religious diversity in a spirit of reasonable accommodation, thus requesting adjustments in specific contexts without the involvement of the judiciary when it comes to governing religious diversity in situ. Foblets discusses a number of paths that may serve as a source of inspiration for judges, lawyers and other interested parties in their search for appropriate solutions to claims relating to the protection of freedom of religion.

Having thus explored the quest for religious accommodation along conceptual, legal and sociological perspectives and the nature and role of moderate secularism as a principle and as a practice, the second part of the book focuses on case studies from Asia and the Middle East with a view to exploring alternative models for accommodating religious diversity.

The chapter by Alfred Stepan focuses on Indonesia, the world’s most populous Muslim majority country. He argues that Indonesia’s comparatively successful democratic transition was helped by its pattern of governance of religious diversity in the public space. This pattern is characterised by five main features. First, there is no provision for sharia law nor hard secularism in the constitution. Indeed democracy requires ‘twin tolerations’ rather than hard secularism. The term ‘twin tolerations’ refers to the relative autonomy of democratically elected officials to rule, but also the relative freedom of religiously active citizens to participate in public life as long as they do not violate other citizens’ rights (Stepan 2000). The recognition of the sociological facts of diversity, and the utilisation of the Qur’anic injunction against ‘compulsion’ in religion, led to the political choice in 1945, 1955 and 1990 against sharia in the constitution.
Second, this model requires rejecting Rawls’s injunction that in order to get an ‘overlapping consensus’ religion should be ‘kept off the political agenda’. In Indonesia, when non-democratic or pro-violence arguments were put on the agenda by some Muslim militants, they needed to be, and they normally were, confronted by knowledgeable and influential Muslims who time and again put on the public agenda their counter-arguments against such extremists, and won the day.

A third element concerns the positive accommodation of religions. Unlike France, Turkey or even the USA, but like Germany, Belgium, Switzerland and India, Indonesia practises a ‘positive accommodation’ towards religions that allows the state to give financial support and other types of aid to a broad variety of religious institutions.

A fourth ingredient of this model concerns policy cooperation: on some issues where the state could not get high compliance from some religious groups (for instance, girls’ education) it has proven useful to have a degree of joint policy discussion and implementation with religious organisations.

Last but not least, Indonesia adopts a public co-celebratory approach to religious diversity. There are six mandatory and paid religious holidays for the majority religion, Islam, but also another seven for the minority non-Muslim religions. Indeed this comes into stark contrast with several European countries, including Scandinavia, the Low Countries and the UK, which have many paid and compulsory religious holidays but all for the majority Christian religion. What is analytically and politically worth more reflection is that all five of these features are present in one way or another in the most long-standing Muslim majority democracy in Africa, Senegal, and in India, which is a long-standing Hindu majority democracy that until independence had the world’s largest Muslim population, so that India’s democracy had to be imagined and planned keeping in context its large Muslim population.

Following up from the chapter on Indonesia, Ahmad Fauzi Abdul Hamid and Zawawi Ibrahim investigate the governance of religious diversity in Malaysia, another Muslim majority country. The chapter offers a critical analysis of the evolving development and contestations of Malaysian ‘plural society’, from its inception as an independent nation-state to the current era of post-Mahathirism and globalisation. A crucial element in this discourse of Malaysian
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pluralism engages with the legal framework of the Malaysian Constitution, including some of its most recent amendments. The Malaysian Constitution endorses Islam as the country’s official religion while, however, also protecting the rights of non-Muslims to practise their faith. For a long time, Malaysia has taken pride in being a melting pot of different cultures, ethnicities and religions, co-existing under a secular public sphere. Traditionally, the contestation over Islam normally occurred in the arena of political parties, that is, between the ruling Malay party, UMNO, and the Islamic party, PAS. But of late, in the post-Mahathir era contestation has emerged in the political-legal landscape of Malaysian society, concerning the constitutional right to religious freedom, raising questions about the boundaries of religious freedom for both Muslims and non-Muslims. Underlying these tensions are the alleged ‘ambiguity’ of the Federal Constitution, the ‘reluctance’ of the judiciary (civil courts) ‘to protect the religious freedom of minorities’, giving way to the ‘ostensibly overzealous arbitrary approach by the Sharia courts’.

The chapter seeks to disentangle these contestations by analysing certain constitutional amendments and sharia reforms under Mahathir’s long leadership which have unwittingly led to the bureaucratisation and centralisation of Islam in Malaysia. In time, this has strengthened the legal reach of certain religious institutions and their roles, both at state and national levels, such as JAKIM, the sharia courts and Fatwa Councils, the Muftis and the Monarchy. This chapter provides detailed examples and case studies to illustrate how in recent times the social space available for accommodating religious diversity is narrowing down. Indeed the current political landscape is destabilised by the emergence in Malaysian civil society of Muslim Malay extremist NGOs which seek to dominate the country’s public discourse. To counter the political inaction of the ruling polity and the domination in civil society by the Malay extremists, for the first time, a group of eminent Malays have also begun to vocalise their critique as ‘moderate Malays’, with a petition, among others, that parts of the sharia laws need to be reviewed to ensure that they do not intrude on the civil liberties enshrined in the Federal Constitution, which they advocate should remain as the supreme law of the Malaysian nation-state.

Rochana Bajpai turns to the Indian case, with a view of investigating how the governance of religious diversity in India as
regulated in the constitution has evolved since the late 1940s at the time of independence, through the late 1980s and to this day. Indeed, in the areas of religious freedom and personal law, India’s constitutional framework is broadly multicultural in character, sanctioning the public expression of religious difference. With regard to the electoral system and reservations, however, Indian constitution makers de-recognised religious diversity and sought the eradication of difference, argues Bajpai. Institutional and normative heterogeneity in India’s constitutional framework has often been an asset, allowing for flexibility, negotiation and change over time in the state’s stance towards religious diversity. At different times, legislatures and courts have articulated both more and less accommodationist positions towards religious diversity. Nevertheless, she argues, in contrast to Mahajan’s understanding of Indian practice as according a recognition to religious diversity, that India’s constitutional vision is characterised by a normative deficit with regard to the protection of religious difference. This has been politically influential, with the rights of religious minorities remaining under-supported by liberal democratic and nationalist principles, a line of critique exploited skilfully by a resurgent Hindu right.

Turning to Oceania, Geoffrey Brahm Levey offers a critical overview of the Australian model for accommodating religious diversity. Australia is in Asia but not of Asia. Institutionally and culturally, Australia instead bridges Britain and the United States, the Old and New Worlds. Its federal parliamentary democracy borrowed aspects from both Westminster and Washington. Yet, Australia rejected both England’s established church and the US’s ‘high wall of separation’ between church and state. Australia is often compared with the US and Canada as one of the great immigrant democracies. Like Canada, it adopted multiculturalism as state policy in the 1970s. Yet, it more closely resembles many European countries and perhaps even Quebec in the precedence it grants to the established (Anglo-Australian) majority culture. Australia thus combines Old and New World patterns and concerns, offering a unique vantage point on the governance of religious diversity in relation to secularism.

Levey notes that we are accustomed to thinking that political secularism and multiculturalism – as two liberal responses to religious-cum-cultural diversity – press in opposite directions.
Whereas secularism *separates* state and religion, multiculturalism involves the state *affirmation* of cultural identity. Australia presents a case where these two models genuinely complement and indeed begin to merge into each other. He argues that Australian multiculturalism, indeed, extended the approach to diversity already established by Australia’s version of secularism. However, secularism and multiculturalism in Australia face a common challenge from attempts to reassert national identity. Perhaps unexpectedly for the twenty-first century, religion has become the favoured vehicle for this reassertion. The chapter begins with some remarks on the constitutional context and the operative political culture. The second section discusses the place of religion in multicultural Australia, and the third section canvasses how religion has been reasserted in recent years as a trope for reinforcing Anglo-Australian institutions and culture as the core of Australian national identity. In the concluding section, Levey identifies some of the key challenges these dynamics pose for Australians.

Returning to the geographical neighbourhood of Europe, this volume includes Israel and Turkey. In relation to the first case, Raphael Cohen-Almagor discusses the principles underpinning the nature of liberal democracy and then critically reviews the nature of Israeli State Judaism. Cohen-Almagor argues that State Judaism in Israel is orthodox, and that the orthodox do their best to protect and promote their monopoly on religious concerns. Jewish Orthodoxy does not promote pluralism and diversity; it limits freedom of choice citizens have in leading their lives. Thus the question has to be posed whether Israel can be described as a liberal democracy. It is argued that Israel is an ethnic democracy, and that it is difficult to reconcile between Orthodox Judaism and the values of liberal democracy. There is a widespread institutional discrimination against other forms of Judaism, whether reformist or conservative. It is further argued that if Israel aspires to be an egalitarian-liberal democracy, it should respect secularism and other forms of religion (Jewish and non-Jewish), pluralism and diversity, and that separation between state and religion is desired.

Last but not least Haldun Gülalp critically reviews the state regulation of religion in Turkey. Indeed Turkey is often seen as an exception in the Muslim world for its secularism, which, scholars agree, has been introduced from above, in an effort to bring religion under state domination and control. Talal Asad and others further contend
that at any rate religion’s public and political role is ultimately determined by the sovereign modern state, implying that this situation is not unique to Turkey. Through an examination of the ways in which Turkish secularism has been debated and through a historical analysis of the political fluctuations that widen or narrow the room for religious expression in the public sphere, Gülalp aims to show that the institutional structures of secularism in Turkey serve as a double-edged sword that can cut both ways. While it is true that the Turkish ‘secular’ state regulates religious affairs through a number of instruments, these instruments may be used not only to marginalise the public and political role of religion, but also to create a state whose power is religiously legitimised. This chapter goes on to critically review recent developments in Turkey and warns against the use of moderate secularism against its own objectives. It concludes a series of cases which suggest that while there is indeed more experiencing of institutional religious diversity in most of those countries, in nearly all of them – Indonesia being an exception – the existing or recent accommodation of diversity is under threat and the phenomenon of new religio-nationalist majoritarianism is more advanced outside Europe than within it. It seems then that parts of the developing world are flashing a red alert about the maintenance of forms of governance of religious diversity that are respectful of minorities and do not offer ‘off-the-peg’ solutions for Europe, but rather a set of experiences instructive about how diversity can be normal yet vulnerable to majoritarianism, even in democracies, if not restrained by liberal constitutions and practices.

The volume concludes with two short afterwords by Joseph H. H. Weiler and Bhikhu Parekh which offer some general reflection in their own way. Weiler is particularly keen to bring out the religious basis for some positions which to many, and especially to the Protestant mind, look like secular rationalisations. He begins with bringing out an argument which he finds present in some of the former Pope Benedict’s speeches. He puts in his own words a contrast between Christianity, Judaism and Islam that he believes Benedict to be making. While there is more than one aspect to this contrast, the most important point Weiler wants to make here is that the reason that Christianity accepts that state law should not be based exclusively on religious reasons is not as a concession to secularism. Rather, it is a recognition amongst modern Christians that religious reasons for action must be accepted willingly and so should never
aspire to have the force of positive law. His second example of the elusive nature of religious reasoning is to do with the definition of a Jew. Recently the UK Supreme Court heard the case of a rejection by a Jewish school of a place to a boy on the grounds that his mother was not born a Jew nor converted to Judaism by criteria approved by the Chief Rabbi, even though the boy is known to be in good standing with his synagogue. The majority decision of the court was that given that the boy is clearly a practising Jew, to reject him in terms of whether his mother is of Jewish descent is to exercise racial prejudice and so the school was guilty of an act of racial discrimination. Weiler thinks that the case does not hang on issues of bloodline but on criteria for conversion and thus the mother’s status is a genuinely religious question and not about her ‘race’. A practising Jew can still fail to be a Jew if his mother was not born a Jew or converted in a manner approved by the Chief Rabbi, relative to a boy who is not religious but was born to a Jewish mother (or a mother who converted correctly). The matrilineal line is not just about ethnic descent but is about religious duties that fall on those who are born Jewish, whether they carry them out or not. If so, then a secular court has no business telling Jews the criteria for religious membership, and so cannot rule that these criteria cannot be about descent. Weiler concludes his piece by joining some of the other authors in the book in questioning the possibility of liberal secular neutrality and assuming that a radical laic position is more neutral than the moderate secularism which gives some recognition of the religion, better still, religions, that give meaning to many citizens and an anchor to a changing national identity.

Bhikhu Parekh offers an afterword which in a short space covers the whole waterfront from fundamental principles, acceptable secular states, multiculturalism and the difficult mono-religious Christian legacy of European states that makes accommodation of religious diversity a problem. He sketches an outline of the key analytical distinctions which constitute a secular state which pursues its own autonomous purposes exercising its own authority. It, however, does not privilege the non-religious over the religious and supports religions where it deems they contribute a public good. It emphasises that religions are not all alike: some are more belief and others more practice based; some more individualist, others more collective. Seeing secularism as involving a wall of separation between the state and religion makes sense in relation to the individualistically
oriented Protestantism but not many other religions. He acknowledges that this diversity leads to problems in interpreting when religions are and are not being treated equally. For example, if Christians are not required to wear anything special to display their faith, not even a cross, but Muslims and Jews are, is to grant the latter the right to do so an example of equality or privilege or a respect for difference? He also acknowledges that while the growth of newly present religions in Western Europe such as Islam means that existing national identities should be adapted to include them, this cannot be on equal terms with Christianity, which continues to much more profoundly shape European nations even as those countries become less religious. Nevertheless, he concludes, the problem of accommodating religious diversity is a particularly acute one in Europe because it is a new problem for what for over a millennium has been a mono-religious continent.

Europe’s predicament is that it confronts a new and deepening religious diversity that is most unusual for European states, certainly since the emergence of political secularism. That predicament is far more common in the Middle East and Asia, where the experience of dealing with it, especially in the contemporary period, is mixed and on the whole tending to move away from religious pluralism and/or secularism to institutionalised religious majoritarianism. Europe has therefore to learn both positive and negative lessons from these other parts of the world, while it adapts its own legacy of Westphalian confessionalism, radical secularism, anti-Semitism and Islamophobia and accommodates the new ethno-religious pluralism – a pluralism which has become central to majority–minority cohesion, to remaking national citizenship and indeed to the European project itself. When the stakes are so high we must be willing to rethink narrow secularist assumptions, negative perceptions of Islam, which ahistorically portray it as an intrusion into Europe, and learn what we can from the experiences of the rest of the world.

References
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