

A GORDIAN KNOT OF RIGHTS AND DUTIES: NEW ZEALAND'S MUSLIMS AND MULTICULTURALISM

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In recent years, Muslims have rarely been out of the news in New Zealand as well as worldwide. The often-controversial nature of the news copy about Muslims, whether intentional or not, raises fundamental issues about relationships between Muslims and the Western world. Even the nature of Islam is drawn into the debate, in spite of the fact that it is Muslims and their actions, not Islam itself, that generate the controversialism and create the topicality of the debate. Not surprisingly, questions are also gradually being raised in New Zealand about how the national Muslim minority fits into the socio-political framework provided by this country; and what practical multiculturalism means for both Muslims and for the host society. The previously fairly irenic conditions (Kolig 2003) are increasingly subject to more critical probing, and not unusually sceptical questions are being asked about the nature of the relationship between majority New Zealand society and the Muslim minority.

The purpose of this paper is not primarily to philosophise about the meeting of two different cultures in a modern democratic state, which in an abstract sense juxtaposes in actual socio-political life a strongly theocentric world-view and way of life with an emphatically anthropocentric and secularised perception of human existence. Nor is the purpose of this paper to moralise about the centuries-old Western tradition of seeing Muslims as 'the cultural other' in antagonistic and often hostile terms, which influences the debate and impedes the development of a rapport. Said (1978) has aptly characterised this Western prejudicial inclination as Orientalism, a ubiquitous ideological trope which episodically and readily escalates into Islamophobia. Huntington's (1996) influential thesis of the clash of civilisations—which in fact comprises several cultural rifts, but is commonly understood to refer primarily to the split between the West and the Islamic world—has added another important twist to the perception of the relationships between the two

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ideological blocs. Stereotyping of Muslims and demonisation of Islam are now the order of the day, colouring the relationships between minority and majority society.

It would be easy to counterbalance these negative perceptions by falling into the well-meaning but equally misguided trap of glossing over the difficulties that arise out of the close proximity and coexistence of such different ideological worlds—not just globally but increasingly within nation-states. A considerable debate around multiculturalism has developed over the past twenty years, much of it occasioned by sizeable Muslim minorities within the West and centred on the division between liberal political theory and communitarianism. The sociological literature on multiculturalism as a political and philosophical concept has grown to substantial proportions, but summarising and considering it cannot be the purpose here (see e.g. Kelly 2002). There are no definitive answers and recipes for making multiculturalism work in practical terms: it is always a work in progress and it is up to the democratic process to work out solutions over time. A juridical groundwork can be laid, but it is always in need of fine-tuning. Multiculturalism, as concept, policy and practicality, requires conscious strategies to make it work, to reconcile theory with practice, and to align the best of moral intentions with the letter of the law. To proclaim the need for mutual respect across cultures is a beginning,² but it has to be augmented with firmer rules of interaction. Among the issues that need to be resolved is whether the recognition of multiculturalism should result in cultural categories being enshrined in law—locking individuals into religious and cultural rubrics, almost in the sense of Apartheid (a rigid and morally flawed kind of communitarianism), or being entirely fluid, a matter of rational, individual choice of autonomous actors (as liberal theory insinuates).³

Some very practical questions and legal issues that attach to multiculturalism have to be addressed; issues that have to be resolved so as to achieve a sound and peaceful coexistence of two ideological blocs. Neither is monolithic: there are ‘secularised’ Muslims and those ready to embrace the doctrines of the Western host society; and there are Western non-Muslims, who also abide by a strongly theocentric perception of themselves, their society and the world and whose literalist understanding of doctrinal rules matches that of so-called Muslim fundamentalists. But in a sweeping

² The need for respect across religious boundaries has been expressed very recently by the third National Inter-Faith Forum in Wellington, 26–27 February 2006. Emphasising a kind of solidarity among religious believers of all monotheistic denominations, and even beyond, is a rational response to the forces of secularisation.

³ For some background on this debate see Kymlicka (1989) and Kukathas (1995). A modern kind of communitarianism, reducing individual choice, appears to be practised by some European nations, which constrain immigrants to abide by what are seen to be the customs of the host culture, with little individual option to adhere to or reject it (see Unni Wikan 2002).

generalisation—and as actual life shows—the potential for serious discordance between the two sides is ever present.

New Zealand's Muslim Minority

There is considerable interest in looking at the situation of Muslim minorities embedded in Western host societies. The relationship of such minorities to modern Western liberal democracies is a very topical one today—sadly for the wrong reasons.

The roots lie in the poignant events of and since 9/11, the attacks in Madrid, Bali, London and elsewhere in the world, and in the rising fear of Muslim fanaticism and extremism. These events have occasioned such questions as ‘Do Muslims make good citizens?’ in the countries that host significant Muslim minorities; or, on a global scale, ‘Will the West come to blows with the Islamic world?’ fulfilling Huntington’s deeply sinister prophecy. How strongly Orientalism codes every thought and discourse involving Muslims and Islam is shown in a recent article by the renowned historian Francis Fukuyama (2005). He argues that the radicalisation of Muslims, which led to the murder of Theo van Gogh and the London bombing, is caused by the all too close proximity of Muslims with Western society. It is the effect of failed incorporation, through which initial attraction ends in repulsion. In Europe, however, this intense interest predates events of 9/11 for another reason: the relatively sudden, massive immigration of Muslims, who now form a significant European minority—for the most part clearly recognisable as cultural others.⁴ This situation had already earlier on created the need to consider multicultural issues.

Regardless of whether the current interest has been stimulated by the violence of some episodes or for other reasons, it is often exacerbated by suspicion about the ability and willingness of Muslims to peacefully and meaningfully integrate in Western societies; to be prepared to make adjustments and religious concessions; and to develop an identity that reconciles being a devout Muslim with living in and being a citizen of a secularised society.

This interest seems perhaps slightly less topical and of a smaller magnitude in a New Zealand context, a country being untouched, it would seem, by Islamic extremism, untarnished by rabid Islamophobia, and unaffected by massive Muslim immigration of the proportions of Western Europe. But I would argue that this issue is of mounting importance. As time goes on, both from a general New Zealand point of view as well as from

⁴ Figures vary from 15 to 20 or even 25 million. If Turkey joined, it would bring over 60 million Muslims into the European Union.

a Muslim view-point, relationships will move into ever sharper focus (see Kolig n.d.).

Muslims in New Zealand form a small minority of 35,000 to 40,000 (an estimate of 50,000 is probably exaggerated), which amounts to around 1 per cent of the total population (see Shepard's essay). New Zealand's Muslims are much less vocal than elsewhere, and rarely make the headlines with sensationalist copy. And even though the Islamic sartorial code and Islamic architecture now have a visual presence, and conspicuously add to the colour of the urban landscape, the community as a whole keeps a low profile. Street demonstrations and concerted, publicised attempts to negotiate spaces in which to unfold their religious needs are low key and discreet. When the 'Danish cartoon affair' swept the world, with mass demonstrations and some degree of violence (even some deaths), New Zealand Muslims showed only a very muted response. The demonstrations, which were completely peaceful and restrained, were mainly carried out by Miladis, Muslims who especially honour the Prophet and celebrate his birthday—which other Muslims reject as *bidah* (heresy). There was barely a murmur of protest when it became known that the Qur'an had been defiled at Guantanamo Bay or when the abuses at Abu Ghraib made headlines.

The majority of New Zealand's Muslims are fairly recent immigrants; a smaller percentage comprises descendants of immigrants from previous decades; and some are converts of Pakeha and Maori stock (estimates range from approximately 500 to 1000). The Muslim presence goes back over 100 years, from very small beginnings through to an exponential increase in the last fifteen years (see Shepard's essay)—from approximately 2000 in the 1980s to 13,500 in 1996, and more than trebling in the subsequent ten years. (But statistics are uncertain, as the Census does not compel people to declare religious affiliation.) Muslims do not form the largest religious minority in New Zealand (unlike in Europe); and they congregate in northern urban centres (approximately 20,000 to 25,000 in Auckland), where they form a significant element in the urban population. Despite relative residential concentration, ghettoisation is not an attendant social problem, nor are youth alienation, economic deprivation and violence (as, for instance, in France).

According to French scholar Olivier Roy (2004:100), one-third of the global *umma* (i.e., all Muslims—1.3 billion) constitute national minorities. In a sense they live in diasporic conditions, in that they are not embedded in a Muslim-majority society, and live in states and under governments that have no Islamic orientation or history.⁵ Thus it is a fact that in recent history Muslimhood, even before massive migration to Western countries, was not unused to minority status (ignoring the classical situation of Muslims in

⁵ According to another estimate only one quarter live outside Muslim-majority states (Cragg 2004:58).

Christian Ethiopia during the very beginnings of the Muslim community). India, Russia (and previously the Soviet Union), China, Cambodia, Thailand, the Philippines, former Yugoslavia and Kosovo readily come to mind. Of course some of these places have exploded in religious-based conflict. As Muslims have felt unfree, and still do, it incites some form of conflict in almost all of these countries.⁶

There is one fundamental difference between this situation and Muslims now inhabiting the West in unprecedented numbers: Muslims in the West are recent immigrants; they are not indigenous, although many have acquired citizenship through naturalisation or by virtue of birth. In the West there is no tradition of two quite different religions or cultures living side by side; no history of close relationships of sizeable religious communities having to share polity and space—except in the Balkans, where ethnic and religious tensions simmering for centuries led to open conflict and ethnic cleansing in the 1990s. (Europe has of course left behind its intolerance towards religious and ethnic minorities, which culminated in vicious pogroms time and time again in history.) The normal, present-day condition in the West is that close coexistence with Muslims has to be defined from the ground up, and relationships have to be worked out without the ability to draw on precedents. In New Zealand, historically, the tiny and sporadic presence of Muslims hardly entered public awareness, and Muslims enjoyed a *laissez-faire* tolerance that allowed them to adhere to their specific observances in the private sphere without Islam ever appearing in public discourse. The ubiquitous potential of xenophobia and ‘racism’ was deflected by the more numerous presence of Chinese immigrants and the indigenous Maori.

The Principles of the State-Religious Minority Relationship

New Zealand as a society and a nation is emphatically secularist and highly secularised—probably more so than most other Western countries. State and government have a declared benign indifference—or neutrality—towards religions of any kind, as well as a tacit policy of total non-interference in religious matters (unless criminal law is seriously breached by religious activity). Historically, the state, though in its character and past influenced by and large by the Christian ethos, in a vague, generic sense, does not give precedence to any Christian church; there has never been a compact or agreement elevating any church to an influential position in matters of state or government; nor is any strong support given to religious organisations,

⁶ In countries with a tiny Muslim minority, such as Poland, Finland, Bulgaria, Myanmar, etc., Muslims were not in a position to effectively oppose the state and majority society.

excepting relatively moderate support to faith-based education systems—such as for the secular curriculum component of Catholic schools, the Islamic school Al Madinah in Auckland, and the support for the Hagley Park prayer room in Christchurch.⁷ The presence of the Prime Minister at inter-faith meetings in Wellington and overseas is also somewhat out of character, given the government's official indifference *vis-à-vis* religious matters, but the rationale may be that inter-faith activity aids the process of integration.

Under these conditions Islam does not face the need to fight against entrenched religious interests for formal recognition, or to try to counter an official religious bias or officially sanctioned religious positions, as may be the case in European countries, which normally have a tradition of a state religion or formal agreement with a particular Christian church. (In very recent years, such compacts favouring a state-church linkage are either increasingly ignored or even formally abrogated.) Conversely, the New Zealand state sees no need to go out of its way to extend formal recognition to Islam. The disadvantage is that on the basis of this indifference, where no support is offered (or has been offered) to any religious organisation, Islam also enjoys no state support. Again this is unlike Europe, where the official recognition of Islam may bring some form of state support, such as the establishment of *sharia* courts and recognition of their jurisdiction (though rather limited), state sponsored religious tuition in schools, support of religious needs in the armed forces, hospitals and public service, adjustment of holiday laws, and the like.

On the whole, the presence of Islam *per se* in New Zealand, from an ideological point of view, is simply not an issue—it is just another religion becoming the beneficiary of state indifference. Also Muslims have not been the focus of state interest, because they are not the largest religious minority, and the question of multiculturalism has been sparked by the presence of other ethnic and religious minorities. (National security interests have recently brought about a change in the state's attitude.) Paradoxically therefore there is less need today for New Zealand to define itself as multicultural or multi-religious in specific recognition of the Muslim presence; in contrast to Europe, with its distinct Christian legacy—which is occasionally reinforced by the Vatican, and even the odd European Union declaration. And there is the pressing awareness in Europe that Islam has become the second largest religion—to which there is an unflagging

⁷ Hagley Park College received financial support from the Ministry of Education to create a prayer room for their comparatively large number of Muslim students. When the Minister of Education was advised, he was outraged that a secularist government supported religion, but later had to acknowledge that a subsidy had been applied for and approved through ordinary channels. Another exception to the rule, systemically, is Maori 'spirituality', which is privileged through legislation and statute as well as through financial support in various forms.

commitment, even among second generation immigrants, which is unmatched by the declining interest in Christianity. The new pluralist reality dispels national monoculturalism and traditional mono-religiosity more and more, as the traditional cultural other is brought into ever sharper relief.

New Zealand is officially bicultural, but multicultural(ist) in practical terms through the existence of distinctly different cultures being recognised in the legal and political discourse; and through the existence of various official and semi-official bodies, such as the Office of Ethnic Affairs, the Race Relations Commission, inter-faith organisations, the Human Rights Commission, as well as relevant legislation (see below). Muslims have mainly benefited from the presence of Maori and Pacific Island minorities for the general climate of cultural tolerance, supportive organisations and legal instruments that assure and underpin cultural tolerance. Multiculturalism is based on the realistic recognition of the fact that vigorous immigration in recent years from a wide sweep of countries—and no longer with a heavy emphasis on immigration from the United Kingdom, Ireland and to a minor extent the rest of Europe—has created a multi-ethnic, multi-religious, culturally pluralist society whose diversity demands affirmative state responses. New Zealand shares this feature of globalisation with the West in general. Massive migration movements have brought about delocalisation of culture, through groups of people of diverse cultural origin transposing ‘their culture’ to other places. For Islam this means it is spilling beyond its traditional boundaries. Thus speaking of the ‘Islamic world’ today becomes less of a geographical concept and more of an ideological cipher, as it must be inclusive of the sizeable minority of Muslims now living in the West.

Another result of globalisation is the emergence of globalised legislation and conventions promoting the human rights agenda. Contained in this legislation is the right to culture and religion. Foundational here are the United Nations-sponsored conventions, which underpin cultural and religious freedom as basic human rights.⁸ A plethora of national acts and statutes (such as the European Union Convention on Human Rights) support these global instruments, recognising the right to culture and religion of one’s choice and offering freedom from discrimination as of right. These rights are not annulled by migration. The resultant policies have the effect (especially in Western democratic societies) of softening assimilation pressures. While

⁸ I am referring to the United Nations-sponsored legislation and conventions, not the Islamic convention as laid down in the Universal Islamic Declaration of Human Rights of 19 September 1981, and the Cairo Declaration on Human Rights in Islam adopted at the Nineteenth Islamic Conference of Foreign Ministers in Cairo, 5 August 1990. Specifically these UN instruments are: the UN Declaration of Human Rights 1948, and subsidiary conventions, above all, the International Covenant on Civil and Political Rights 1967, the International Covenant on Economic, Social and Cultural Rights 1967, and the UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief 1981.

many countries still restrict immigration of cultural aliens, and the human rights agenda is often selectively applied, immigration policies in the West no longer insist on a total and rapid absorption into dominant host cultures, expect adaptation of minorities to a certain degree only, and allow for the retention of distinct cultural identities. Immigrants and cultural minorities are no longer expected to shed their distinctive traditions in order to adopt the dominant cultural and national identity. Variations do exist of course: the United States and France are still more assimilation oriented and adhere to the melting-pot theory more strongly than do other Western countries. Several European nations have now introduced screening processes to ensure intending immigrants from the Islamic world are *au fait* with secularised conditions and sexually-liberalised social features and possess the requisite language skills. However, in a generalised sense the old colloquial adage 'When in Rome, do as the Romans do' is no longer legally enforceable, although it may still be tacitly expected.

Despite such measures being imposed to facilitate the ready inclusion of immigrants into the host society, cultural absorption into the dominant host culture cannot be legally enforced. State powers to coercively mould one form of citizen and treat minority expressions as deviance have been curtailed by human rights legislation. Nor does the modern democratic state see it as its primary function to achieve cultural and religious homogenisation. Emphatic and open retention of separate cultural identity is a legal and practical reality as long as some fundamental preconditions are met.

New Zealand, being a signatory to virtually all international human rights conventions, is strongly influenced by the global human rights ideology. It has created two important legal instruments to secure minority rights: the Human Rights Act 1993, which seems to be used primarily to prevent discrimination against individuals; and the Bill of Rights Act 1990, which safeguards and enshrines in principle religious and cultural freedoms and the collective rights of minorities *vis-à-vis* the state (see Kolig 2005). The New Zealand Bill of Rights goes further than comparable instruments elsewhere, inasmuch as it not only allows for freedom of belief, but also its manifestation in actual social conduct.

New Zealand thus conforms to the characteristic configuration of Western liberal democracies which have most emphatically embraced the human rights ideology: the retention of cultural identity, religious freedom and cultural choice are no longer subject to the vicissitudes of *laissez-faire* tolerance which can be easily withdrawn. Liberal Western democracies, by and large having abandoned the requirement of nationalisation of identity, still expect integration however. Policies of multiculturalism, i.e., the recognition of national cultural and religious minorities, whether declared or informal, still tacitly expect integration. The particular understanding a

nation has of integration and its importance in the national discourse has a direct bearing on immigration policy. In this sense Muslims have occasionally come under the spotlight in New Zealand in connection with an ‘all-too liberal’ or ‘open-door’ immigration policy which, as Opposition politicians charge, favours groups with little integrative potential.⁹

The Difficult Balance of Integration

In particular the sudden influx of culturally different groups in Western Europe, Australia and Canada has thrown up the question: to what extent can the host society accommodate cultural plurality by allowing different religious traditions and customs to be exercised relatively fully, and do so without losing its own character and putting in jeopardy its own principles? Does ‘endless tolerance’ and acceptance of all cultural values lead to ‘valuelessness’, and ultimately to the denial of one’s ‘own identity’—and even worse does it lead on a practical level to an undermining and loss of social cohesion?¹⁰

As the Cattle Report, commissioned in 2001 by the British Home Office, argues, loss of social cohesion seems to be precisely the problem of British multiculturalism. Britain and the Netherlands, paragons of cultural tolerance in the past, have started to critically debate multiculturalism. Their political discourse leans more and more to the conclusion that freedom of culture without effective integration is separatism of the kind that leads people to have ‘parallel lives’ devoid of interaction with culturally different groups, and that the maintenance of distinctive sub-national identities invites mutual hostility. It also prevents the development of a common sense of citizenship and suppresses feelings of loyalty to the wider society and nation and their values. In the light of such issues, it must be seen as a constructive, if small, step to avoid the sins chastised in the Cattle Report that a New Zealand Catholic school, St Mary’s College in Wellington, appointed a Muslim student as head girl in February 2006. The move did not pass without controversy, but this did not cause the school to alter its decision.

⁹ There is growing criticism in New Zealand of multiculturalism and liberal immigration policy; though apparently not as vitriolic and hateful as in Australia (see Kabir 2005:12-15).

¹⁰ This question, for instance, was raised very recently by the famed American historian Francis Fukuyama (2005). The leader of the Opposition Dr Don Brash’s Orewa speech on 31 January 2006 made a brief reference to this question, demonstrating that it has become an issue in the New Zealand political discourse despite the fact that this is not an election year in which it can be expected that such issues would be raised for political gain.

The Cantle Report, aiming to isolate the causes of the ‘race riots’ of 2001 among ethnic groups and British youths, pointed out the dangers of single faith and separatist ethnic education, segregation in residential circumstances and ghettoisation—factors seen to be exacerbated by discrimination in the economic infrastructure and lack of enfranchisement. The conclusion was that these circumstances, accompanied by an absence of a sense of common British citizenship, created a powder keg. Perhaps surprisingly, then, French assimilationist policies, judging by the violent unrest among immigrant youths in 2005, seem to be just as ineffective as Britain’s and Holland’s multiculturalism that supports cultural distinctiveness. New Zealand clearly is not beset by such problems: ghettoisation, exclusionary single faith education (though practised to some extent by Auckland’s Al Madinah school) and discrimination have not reached European proportions—individual grievance cases notwithstanding.

In creating a truly multicultural society that fully enfranchises Muslims, both sides of the relationship, and their respective rights and legitimate expectations, need to be considered. The demonisation of Islam and suspicion of Muslims—indubitably on the rise in New Zealand as it is generally in the West—is not conducive to creating a multicultural society. Effective multiculturalism is not a linear process, driven solely by globalised juristic and ethical considerations, nor by national statute alone—the humanistic will on both sides to adjust is equally as important.

The Dutch academic W.A. Shadid (1991:363) suggests that integration on the systemic and collectivist level amounts to the granting of provisions that allow a collective minority to become incorporated into the host society without essential loss of substance of culture, belief and identity. Practically speaking, this means free observance in all aspects of religious duties for Muslims. But what exactly are these indispensable observances in order to be truly faithful to Islam? Given the many sectarian and regional variations, this requires the devising of a consensus among Muslims. Above all, Shadid defines integration in terms of a duty on the part of the host society to respect cultural and religious sensitivities, and to allow all religio-cultural practices of an immigrant minority. The host society in his view has a responsibility to recognise the presence of a cultural and religious minority, make provisions for its religio-cultural needs and, if necessary, extend protective measures to it.

How far can the protection of a minority’s religious needs go? The transformation of Western society so as to adjust fully to Islamic canonical law has to remain an impossible dream. It can be predicted that the *sharia* in any form, whether harshly literalist or moderated and modernised, will not be enfranchised into state law in Western societies in the foreseeable future. The creation of an Islamic minority society in the form of self-ruling Muslim enclaves within a wider Western society, including the sweeping dispensation

of the minority from dominant law and custom, is not a realistic expectation either, given the practical, social intermeshing of the two sides. Any support and compromise on the scale accorded to indigenous minorities in settler states, such as New Zealand, seems equally out of the question. Most theoreticians on multiculturalism, presumably on moral grounds, draw a line between indigenous minority rights and immigrant minority rights.

Some assistance laws (Levy 1997) may be possible under a regime of Western secular law, which, however, cannot be expected to grow into legal pluralism. What may be possible, and is already partially happening, is the recognition of Islamic marriage and divorce, and the formation of *sharia* courts with limited jurisdiction—which, even when confined to family matters, brings its own difficulties; for example, in mixed marriages. Assistance may also be given by extending, strengthening or re-interpreting blasphemy laws to suit Islamic needs, even though the difficulty here is to infringe as little as possible on freedom of speech.¹¹ The secularist nature of New Zealand society, disinclined to make concessions to Christian sensitivities, is even less prepared to bend to accommodate strict Islamic notions.

Some exemption laws would be conceivable: for instance, the wearing of veiling for drivers, similar to the dispensation from helmet laws Sikhs enjoy in the United Kingdom.¹² However, New Zealand is very sparing with such exemptions.¹³ Muslims may wish to have the right of home slaughter of sacrificial animals for *eid al adha* celebrations, or may demand changes to Sabbatarian laws to allow Muslim shop owners to open on Christmas Day and Easter Sunday. Some adjustments are easily made, such as amendments to the Holiday Act, which would allow Muslims to celebrate *eids*, *haji*, *jummah* etc. without having to depend on an employer's generosity.¹⁴ In New Zealand, disputes regarding such issues can in fact be dealt with under the aegis of the Human Rights Commission.

Shadid's perspective on integration emphasises the rights of minorities, but integration also means meeting the expectations of the host society; and imparts a duty on the part of the minority to fit into the host society in such a

¹¹ An example is Germany's law against 'Beschimpfung von Bekenntnissen, Religionsgesellschaften und Weltanschauungsgruppen' (loosely translated: 'offering insults to faiths, religious communities and people of a particular world-view'), which was used, for example, in 2006 against a businessman who produced toilet paper with the word 'Koran' printed on it.

¹² A policy was recently discussed in April 2006 by police authorities, as to how police should react when encountering a veiled driver (see e.g., *The Press* website, 3 April 2006, 'New police policy on burkha-wearing drivers unveiled').

¹³ For instance, Rastafarians are not allowed the use of cannabis for religious purposes.

¹⁴ The granting of Sabbatarian minority rights is specifically part of the UN convention against religious discrimination.

way that smooth interaction is possible, some degree of social cohesion is achieved and a common sense of citizenship can emerge.

When two such different ideological systems as Islamic culture and Western culture—grown out of and influenced by different religious traditions, and with one side having largely abrogated its stern monotheistic roots—are living side by side, the learning process to find a *modus vivendi* can be difficult. Even in extremely liberal democracies episodic conflict arises between the forces of adaptation and religious needs. Islam is not an ‘inner religion’ in which religious observances can be met by ritualistic gestures. Islam projects a strong emphasis on practical observances, some of which are in conflict with Western conventions and laws. Not all Islamic requirements can quietly persist in the grey zone of privacy and *laissez-faire* tolerance.¹⁵

The most liberal form of multiculturalism must recognise some limitations in the framework within which religious freedom can unfold. The limits have been summed up by Sebastian Poulter (1998:236) with regard to Britain thus: ‘it is inevitable ... that [British Muslims] will have to accept that ... Islam can only be followed as a religious faith and not pursued as an all-embracing way of life’. For devout Muslims this demand is not only a personal diminution but an attack on Islam itself. Their aspirations of manifesting their beliefs in social life inevitably chafes against the notion of having to fit into the British or Western framework of what adherence to a religion may mean.

A British Muslim leader, Sheikh Zaki Badawi,¹⁶ responds in a very conciliatory tone (Wolffe 1993:164):

Our adjustment is inevitable. The first sacrifice we shall make is parts of the individual cultures within the faith—Nigerians, Egyptians, Pakistanis all carrying bits of their culture around their necks like a dead weight, slowing down progress. That will be shed, allowing a return to the basics of our religion. The position of women will become different, more liberalized. We shall lose our suspicion of science and technology, fears which hold back so many Muslim nations. We shall acquire the idea of democracy, the clever balance of responsibility and freedom....

¹⁵ In Europe, animal rights groups, for example, have started to react, after years of ignoring it, to the private slaughter in *eid al adha* celebrations. Sheep destined for private *halal* slaughter, riding in the backseats of cars, seem to have been a common sight in Paris (see Brisebarre 1993).

¹⁶ Dr Badawi was principal of the Muslim College of London, the chair of *imams* and mosques council of the UK, and the chair of the *sharia* council and has held other prominent positions.

There is a subliminal recognition in both statements that the burden of mutual adjustment is not exactly equally balanced. Despite the demise of assimilationist discourses in recent years, a larger burden still falls on Muslims. In other words, both authors realise the diasporic need of Muslims and indeed of Islam itself to adjust to the realities of Muslims living as a minority in a differently orientated host society and the consequent need for the minority to adjust. The French scholar Olivier Roy (2004:201) is very optimistic in saying, 'Islam tends to adapt to the laws and traditions of its host countries even for movements that pretend to ignore or reject westernisation'. Yet, the immediate reality often seems different.

With rising numbers, Muslims no longer remain inconspicuous; they transcend the grey area of *laissez-faire* tolerance, where the host society ignores the small numbers of Islamic practitioners and the 'strangeness' of their customs. As their numbers rise, Muslims demand—and are democratically entitled to do so—official recognition of their religious needs, in the form of officially conceded and legally confirmed spaces in which to unfold their identity. It is their right as citizens and legal residents to voice their views, express their values and demand changes to law and society. Given that the two cultures are quite different in some respects, questions quite reasonably arise as to what extent the nation is able to make concessions, in what form they should be (enshrined in law), and to what extent Muslims must be expected to be adaptive?

Integration in the widest sense, as commonly agreed, means entitlement and duty regarding active participation in the democratic political process; fitting into legal and political structures; acceptance of the dominant legal system and legal principles (with the right to work democratically for changes); and acceptance of the host society's core values. Especially the latter point is a tricky and relatively vague issue.

What are Western core values? Embracement of the idea of human rights (as sponsored by the United Nations); absolute legal and political equality of all citizens (and to a large extent also legal residents) regardless of religious belief; and acceptance of the diffuse pervasiveness of a spirit of secular humanism that encapsulates the previous two principles. This means Muslims have to accept the dominance of the secularist principle, because their very enfranchisement and the religious liberty they enjoy is based on it. Muslims have to accept that the paradox that lies in the freedom of being Muslims means also accepting the freedom of others, the homosexuals, the godless, the critics of Islam, the cynics, the blasphemers, and the irreverent artists and cartoonists. The non-religious, irreverent beliefs inherent in the Danish Muhammad cartoons, or in the *Satanic Verses*, have to become less of an abomination—to which outraged religious sensitivity reacts with violent protest. The idea of equality of all religions and cultures, a derivative of post-modernist relativism, encourages abandonment of the concept of

absolute superiority of a particular religiously defined view-point and conduct.

The idea of sovereignty lodged in collectivities of people, and the legitimate power of collective human will to make and enact laws on the basis of majority decisions, is in total contrast to the idea of the overriding, eternal and immutable primacy of canonical law and requires an appropriate shift from theocentric thinking. So does the separation of law and morality as practised in Western society (King 1995:108): a condition in which morality is not defended by law and becomes a private affair and private responsibility. Attempting to foist such concepts, ideas and principles, which lie at the heart of modern Western liberalism, on Muslims may be called internal imperialism or intellectual absolutism. But even the most liberal multiculturalism cannot ignore the ideological contradictions. As Gellner (1992) has shown, scientific rationality—and the secularism it entails, informing the quintessential Western ideology—and religious belief, despite being antinomious in some respects, have much in common—allowing him to call both ‘fundamentalist’. In fact they have so much in common that they are logically mutually exclusive. Even though individuals may be practically able to combine them in a disharmonious world-view, in the long run a resolution has to be achieved.

New Zealand Realities

Some isolated problems, indicative of a degree of discordance between Muslim points of view and practices and ‘mainstream’ New Zealand customs, are arising sporadically. When they do they put to the test the strength of the New Zealand Bill of Rights Act 1990. The so-called ‘*burqa* incident’ gave a small taste of the difficulties that may arise (see Kolig 2007). When two Afghan women wished to remain fully veiled as witnesses before a court of law, it caused a conflict between Western court protocol, which demands that faces be fully exposed, and associated notions of a ‘fair trial’, and Islamic views on female modesty. The Bill of Rights and its reference to religious freedom were invoked by counsel for the women, while some voices—Muslims among them—were raised, claiming that there is no law in Islam which would require women in public to be fully veiled. This requirement would be only a regional custom and is not anchored in *sharia*. This case drew attention to the division between what is actual, divinely commanded law, and what is merely, and quite possibly flawed, interpretation, local custom or historical accretion, all of which could be dispensed with. The court, after several months of deliberation and research, pronounced a ‘Solomonic’ ruling, which ordered the women to unveil, but allowed them to remain hidden behind a screen thus obscuring them from

public view. Of course further conundrums may develop around notions of female modesty, such as whether driver's licences and passports can be issued without the woman's identity being verified by a photograph that clearly depicts her facial features; or whether identity checks may demand that a woman unveil, and the like. Beyond that, the case raises issues such as whether the ethnic component, historical accretions and aspects of customary practice should be shed, as being distinct from divine law, in order to find a common form of worship and to arrive at a national convention of Islamic law which, reduced to its indispensable principles, may then be attempted to be reconciled with the demands of living in a Western society. Vastly going beyond forging a bond between Muslims of diverse ethnic backgrounds, such a move encompasses an endeavour to blend in better with the host society. Some authors believe they have noticed the gradual formation of national Islams: a Dutch, Norwegian, French, British and Australian Islam; while others, Muslims themselves, argue for Muslims to go even beyond that and, in recognition of present-day political realities, develop a Euro-Islam (for instance, Tariq Ramadan). Kepel (2004) perceives an even greater, global responsibility: he proposes that Europe will be the ideological battleground between Islamic modernism and fundamentalism, and the outcome will determine the future of global Islam.

The distinction between canonical law and custom may also be raised in the wearing of the more general female head covering, the *hijab*. France has given a peculiar answer in the so-called '*affaire du foulard*': wearing the *hijab* (or other distinct religious symbols) in the state education system is now forbidden by law. The point of this is that the *laïcité*, the secularity, of the public education system, defining the quintessential French identity, be underlined; and being so important, may over-rule notions of religious freedom couched within the human rights agenda. This begs the question: is wearing a *hijab* an indispensable religious observance, part of Islamic law, and essential for women to maintain an Islamic identity? Can a woman be a Muslim and not wear a *hijab*? Schools in New Zealand appear to be more accommodating, since a test case some years ago was decided by the Human Rights Commission in favour of the liberty to adhere to an Islamic dress code in schools.

Other problems, potentially more serious for New Zealand Muslims, have arisen recently: how to respond to apostasy, blasphemy and, in a broad sense, the trend towards general sexual liberalisation, which grates against the Islamic sense of divinely ordained propriety? Muslims saw with displeasure the voting behaviour of the only Muslim MP, Dr Ahsraf Choudhary. As list MP of the ruling Labour Party, he supported the on-going change of moral culture by voting for legislative innovations concerning

prostitution and the recognition of homosexual partnership.¹⁷ It is of course not true that Muslims are *en bloc* the strongest opponents of ‘moral liberalisation’. The Labour MP Tim Barnett suggested in an interview¹⁸ that the percentage of Muslim delegates at Labour Party conferences is far beyond the percentage of Muslims in the total population. The reason is probably a growing awareness among Muslims that they do share interests with other minorities.¹⁹ Is there a new, more liberal Islam in the making? On the other hand, Muslims do seem to arrange themselves at times—and form temporary alliances—with fundamentalist Christian interests, which represent rather conservative values.

Other areas of friction between Muslims and majority Western culture are notions of the nature of freedom of expression. It is not only the extent and limitations of freedom of speech, but also importantly the nature of the content that falls beyond such limitations. Related to this is the question of the freedom of the press—a principle cherished as a high public value. It does not commonly recognise that absolute freedom of the press, and indeed absolute freedom of expression, are neither protected nor observed in reality. This freedom is selectively, and often unfairly, applied. The ‘Danish cartoon affair’ resoundingly brought this dilemma to public notice. This case also raised the question of whether the state should legislate to protect religious interests, or whether blasphemy laws that had lain dormant for many years could be reactivated.²⁰ State interference, however, to punish cartoonists satirising religious symbols and values and to circumscribe this freedom—as is done in relation to denial of the holocaust and other issues considered sensitive in the West²¹—seems repugnant in a highly secularised society.

The relativity of freedom of expression is quickly demonstrated in cases when Muslims express views that conflict with Western notions of acceptability. Expressions of Islamic radicalism and intolerance not infrequently now highlight the limits of freedom of expression, especially as in many Western countries laws are being created or tightened in order to

¹⁷ The Prostitution Law Reform Act 2003 and the Civil Union Act 2004. Dr Choudhary abstained in the first instance allowing its passage, and voted for the bill in the second.

¹⁸ Interview in November 2004 in Christchurch, conducted by Dr Ian Clarke, as my research assistant.

¹⁹ These are minorities of sexual orientation and even Jewish interests. Choudhary expressed this idea in a press release, 1 December 2004.

²⁰ Blasphemy laws are on the books in New Zealand but have not been used for decades. Shortly after the Danish cartoon affair, the Catholic Church felt similarly aggrieved through a cartoon television programme (the *South Park* show screened in February 2006) in which, in a persiflage of the stigmata, a Madonna statue spurts blood on the Pope.

²¹ Several European countries have laws prohibiting the denial of the holocaust. A cartoonist at a major New Zealand newspaper was sacked for comparing Israel’s treatment of the Palestinians to Apartheid. From a Muslim perspective this indicates a less than even-handed application of the principles of freedom of speech and freedom of the press.

counter terrorism, and to restrict its encouragement and expressions of sympathy with it. Religiously inspired ‘hate speech’, such as preaching violent *jihad*, is one such controversial issue. Preaching violence and defending it in the *jummah khutba* (the important Friday sermon), as was apparently done at the Finsbury Park mosque in South London, landed the *imam*, Hamsa al Masri, in jail under newly sharpened British law. Muslims’ right of free speech here meets with the advancing erosion of civil liberties through anti-terror initiatives. The introduction of ‘hate speech’ legislation to the New Zealand parliament was rejected in 2005 by the Minister of Justice, Phil Goff, as an infringement of the principle of free speech. As he pointed out, such offences could be dealt with under existing laws that ban ‘incitement to violence’. It needs to be emphasised, however, that up to the time of writing (February-March 2006) no need has even remotely arisen in New Zealand to curb radical Islamist expressions.

The New Zealand response to an incident of ‘hate speech’—which was in fact quite similar to a parallel incident in the Netherlands—was quite conciliatory. Effectively, it conceded to an Islamic scholar the right to enunciate religious doctrine without fear of punishment. This was a lecture by Dr Hakim Quick, an international preacher and well-known *jihadist* (see Roy 2004:150, 235), in which he railed against homosexuality and argued offenders should be killed in accordance with Islamic law. He was not charged with incitement to violence, as he might have been; instead the television channel was chastised for a breach of broadcasting standards. In shifting responsibility from an individual to a communication agency, a departure in the state approach from liberal political theory to a more communitarian view was signalled.

Difficulties can emerge from the Islamic sense of justice (*adl*) and what in the Muslim perspective constitutes appropriate punishment for such religious crimes as apostasy, blasphemy, homosexuality, violations of female chastity, and the like. The issue of punishment for homosexuality briefly flared up in 2005 when it was mistakenly argued in a television programme (*60 Minutes*, TV3, 4 July 2005) that Islamic law as laid down in the Qur’an demands ‘death by stoning’; and this was subsequently supported by Muslims commenting on the programme. Homosexuality, it was said, constituting *al-fawahish* (illegal sexual intercourse), like adultery and lack of chastity, would warrant the harshest form of punishment according to the *sharia*.²² This assertion caused some unease in the wider society already suspicious of stereotyped Islamic practices and attitudes.

²² In fact ‘stoning to death’ for homosexuality is not demanded by the Qur’an as was claimed, nor is it mandatory for adultery. This view on what represents appropriate punishment arises out of the Sunnah.

Quite different conceptions of the appropriateness of gender relations pose another source of disagreement. As Poulter (1995:84) points out, the *sharia* accords women ‘equivalent’ rights, not ‘equal’ rights. This is totally incompatible with Western notions, as well as human rights principles, of total gender equality. In comparison with this major issue, related notions of the propriety of gender separation (for instance in coeducational systems and especially in sports education) may cause some minor difficulties. Little compromise seems possible to accommodate certain family conditions not uncommon in the Islamic world: polygamy for instance; or the recognised right of the husband to punish his wife physically for *nashus* (rebellion). While for some Muslims this might be a religiously prescribed duty to deal with certain misdemeanours, New Zealand law would consider it intolerable domestic violence.²³ Extreme attitudes to family honour being seen to be vested in females, in cases where this leads to *izzat* (so-called ‘honour killing’), would meet with little understanding in wider New Zealand society. A defence of mitigating circumstances in sentencing would be inconceivable, not only because of lack of sympathy for such actions in the host society, but also because of the principle of gender equality.

Another, if rarely practised, Muslim custom, female circumcision, *khafd*, may also potentially lead to conflict. It is seen by some—mainly Somali Muslims—as a religious duty. However, it is forbidden by New Zealand law (Crimes Amendment Bill 1994; see McDonald 2004),²⁴ while male circumcision is allowed, and frequently practised. If specifically desired by a female, denial of it by law would be an infringement of her human rights, especially in terms of religious freedom. This law can also be interpreted as gender discriminative, since male circumcision is specifically allowed. Clearly this law is not culturally neutral—as some have argued it shows a feminist bias and is therefore not even gender-neutral—and under a multicultural aegis would require change.

Democratic participation, acceptance of parliamentary democracy and ‘infidel rule’ are other delicate issues. It has frequently been argued that Muslims have problems with Western-type democracy; that Islam is averse to the acceptance of parliamentary and representative democracy; and indeed that ‘infidel’ governance is problematic to devout Muslims (e.g., Lewis 1994). The traditional dichotomous world perception that divides humanity into *dar al Islam* and *dar al harb/kufr* may pose some difficulties. Rather than living among infidels, strict interpretation of the scriptures may demand *hijra*, emigration, or in extreme cases violent opposition. To avoid turning

²³ This issue briefly flared up in Christchurch in 2005, when it appeared the local Muslim leadership would condone this practice.

²⁴ The New Zealand Crimes Amendment Act 1994 says, anyone ‘who performs or causes to be performed on any other person any act involving female genital mutilation is liable to imprisonment for a term not exceeding seven years’.

immigrants into a flood of *muhajirun* (emigrants), French Muslim leadership has strongly emphasised the concept of *dar al ahd*, the realm of treaty, as a mitigating concept allowing Muslims peace of mind while living among 'infidels' (Kepel 1997:151). Similarly, Ramadan (2004:70) has argued that as long as certain conditions are met, such as freedom to practise Islam, *dar al dawa* (realm of proselytisation) obtains in any Western country. This concept underlines the possibility, even duty, of Islam to expand in diasporic conditions. It does however leave the question unanswered as to what degree Islam can be practised freely when certain concessions by the host society are impossible to make.

I found New Zealand Muslims overwhelmingly to be of a pragmatic disposition in which theological sophistry has little currency. In a very few cases, where some ideological justification was needed, the concept of *darura* (necessity) seemed to serve the purpose: the necessity of economic betterment to provide for the family; the education of children; freedom from persecution; and freedom to practise Islam all justifying the need to live in a non-Muslim society (see An-na'im 1996:346). Hardly any Muslims I spoke to saw a need for a mediating concept such as *dar al aman*, or *dar al ahd*, or *dar al suhl* (concepts referring to treaty or agreement between Muslims and non-Muslims) to overcome what Ramadan (1999) called Islam's binary vision of the world (see, for instance, Lewis 1994; Hussein 2004:123).

Multiculturalism not only demands tolerance and acceptance on equal terms by the host society, but also demands that the host society's values and principles not be denied. It implies the expectation that Muslims will make a concerted effort to fit into existing socio-political structures, accept the host society's values, and live by most of its rules, laws and conventions. Compliance may be strongly counterpoised by the pressure of being not only a citizen, resident or asylum seeker in a host nation, but also very distinctly being a member of an imagined global community. In other words loyalty (*ukhuwa*) and adhesiveness to the global *umma* also make certain demands. Just this factor, perhaps paradoxically, has increased the attractiveness of the New Zealand Labour Party, despite its highly secularist stance. The government's refusal to become involved in Iraq, its slightly more even-handed approach to the Palestinian issue, and its distance from the current United States administration all count in its favour in the eyes of many Muslims.

An example in a *Dawa Newsletter* also reflects the problem of influences from abroad. Although it may be considered a good expression of solidarity with Muslimhood, it certainly is not in the spirit of integration when a contribution to the electronic newsletter (4 December 2003) suggested that it is '*kuffaar*'[sic](unbelief) for Muslims to respect non-Muslim festivities and holidays. Even responding to friendly good wishes and greetings must be avoided because this means imitating the customs of

mushrikun (idolators) and *kaffirs* (unbelievers). Inversely, as a multiculturalist gesture, the Holiday Act could easily be amended to accommodate *jummah*, *hajj*, *ramadan* and *eid* festivals.²⁵

The Muslim response to diasporic conditions is not monolithic—nor does it happen in black and white terms—although adaptive responses clearly are in the majority. One of the foremost Muslim thinkers in Europe, Tariq Ramadan (2004), teases out Islamic principles from the cultures and circumstances of Muslim origin and anchors them in the cultural reality of Western Europe. It is a process of essentialisation of Islamic law and practice. Bassam Tibi (2005) demands the de-politicisation of Islam—in other words, making it an inner religion just like Christianity, to embrace secular democracy, pluralism, civil society and individual human rights. The alternative to this, for him, is the impasse of fundamentalism. However, it has become clear that forces of adaptation are met rigorously by forces of resistance within national Muslim communities. Two factions have clearly evolved: adaptationists, who have absorbed the attitude expressed by Badawi; and so-called ‘fundamentalists’, for whom the canonicity of Islamic *reglement* is not amenable to concessions. They argue that the doctrinal principles of Islam cannot be compromised by reform (*islah*) for the sake of adjusting to life in an infidel environment. In their view, too many concessions have been made already in the lives of Muslims and, if conflict exists between the dictums of the host society and the demands of Islam, a rejectionist stance has to be taken. While the host society may worry about the radicalisation of Islam, a so-called fundamentalist stance may not be violent, but simply a ritualistic perception of human life in which ritualistic, doctrinal obligations are of greater priority than the practicalities of human existence. Islamism and radicalism may be ‘home-grown’ as a response to unsatisfactory conditions, lack of enfranchisement, and discrimination, but may also be an ‘imported’ ideology, taking cues from the international scene. New Zealand, too, cannot be expected to remain independent of the global situation. Diasporic awareness, combined with what Ramadan (2004:186) has called ‘victim mentality’—recommending that Muslims shed it—is a fertile ground on which resentment and radical Islamism may grow. Shedding the perception of being a victim, through discrimination and by not being able to live completely in accord with Islamic doctrinal prescriptions, does not require its replacement with a sense of gratitude about being allowed to live in peace. Muslim voices appreciating this fact are few and far between. Interesting in this context is the view of Muqtedar Khan (an Indian Muslim scholar living in the United States): that if 9/11 had happened in

²⁵ In fact their observance is already protected by the Human Rights Act 1990; as well as for instance by article 6 of the Proclamation Against Religious Discrimination 1981.

India, thousands of Muslims would have been slaughtered (Hermansen 2004:84).

Moderates and 'adaptationists' clearly form the vast majority among New Zealand Muslims. Such views are also firmly represented by FIANZ. Cleansing Islam of cultural 'baggage' and customs, which are considered strange in a Western context, seems to be the predominant intention. The realisation in the *burqa* affair that total veiling is only a regional custom, and is not *stricto sensu* demanded by Islamic law, is just one example. That homosexuality need not be punished by 'stoning' is another. When this issue was raised in a television programme to portray the sinister emergence of 'fundamentalism' in New Zealand, prominent Muslims spoke out against it. Using *ijtihad* (interpretation) (see Kolig 2001) to alleviate tensions between Muslim practice and New Zealand conditions also seems to enjoy some favour. However, the first Muslim member of parliament, Dr Choudhary's espousing an opportunistic political philosophy of voting with, and supporting, other minority interests, has become a divisive issue. While sharing initiatives with the conservative agenda of other religious communities may be acceptable, to be part of the sexual liberalisation agenda appears to be strongly rejected by the majority of Muslims.

Even if the willingness to adjust, by using Islam's doctrinal flexibility, and to entertain the possibility of licit reform is widely shared among Muslims, the question remains: who should decide and has the authority to define the parameters of doctrine and to lead the kind of reform (*islah*) that would enjoy wider acceptance? Who has authority in specific cases to determine what is religiously required conduct, and what doctrinal aspect may be adjusted so as to make life easier? Or who is to decide what is *bida* (heresy), or what is mere custom and not law? Who is to decide what is tolerable or intolerable idiosyncrasy? Multiculturalism exerts pressure on Muslim communities to standardise Islamic practice, if not the *sharia* itself, and to develop communal leadership structures in ideological matters. Who will adopt the mantle of authority in New Zealand and by what means? The FIANZ *shura* council no doubt has taken a lead, but its authority has already been challenged in various ways, even by Muslim organisations and individuals that belong to FIANZ.

These are important issues that need to be addressed on the march to a truly multicultural society, in which Muslims not only take an equal place among the citizenry, but feel themselves that they are an integral part of New Zealand society. Effective multiculturalism should make Muslims more than a tolerated appendix looked at with some suspicion. The policy intention is that it should facilitate integration in a social partnership through the recognition of the identical universality of human values. Integration, as Tariq Ramadan (2004) expressed it (slightly paraphrased here), is not just for Muslims to learn to function within the framework of secularised democratic

societies and to use the opportunities offered by Western civil liberties for their own benefit, but also to make a contribution for the betterment of all. An effort in good faith to achieve a lasting social rapport will make Muslims not only 'Muslims in New Zealand', but truly 'Muslims of New Zealand'.

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