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Religion, Muslims and the state in Britain and France: from Westphalia to 9/11

Introduction

Britain and France have been offered by many social and political scientists as two distinct models of how a west-European democratic nation state should set about absorbing recently immigrated ethnic and religious minority communities. France has been portrayed as representing an ‘assimilationist’ model in which the individual is integrated directly into a secular republic as a citizen, while the United Kingdom is said to represent an ‘integrationist’ model in which communities are absorbed – or an individualist versus a communalist approach.¹

In the following I shall investigate these claims with specific reference to Islam and show, at the end, that neither model is ‘clean’, that the distinctions between the two countries are more of form than of substance, and that under the impact of changing environments, particularly in the political field, they were converging even before the impact of developments consequent upon the terrorist attacks of 11 September 2001.

¹ A representative of this analysis is Gilles Kepel’s *Allah in the West: Islamic movements in America and Europe*, Cambridge: Polity Press, 1997.

A. Church-state relations

Fetzer and Soper have recently argued that the various church-state relations inherited by contemporary European states have been a factor underrated by scholars in their discussions of the process of local accommodations to the growing Muslim presence.² They refer to existing discussions of church-state relations which traditionally identify three types³:

1. Countries where the relationship is governed by a concordat, such as has traditionally been the case in Italy, Spain and Portugal. Some scholars would include, at least partially, Germany in this category.
2. Countries with a state church, such as Denmark, Finland, Norway and, until quite recently, Sweden. England might also be included, as could Greece.
3. Countries with separation between church and state such as France, the Republic of Ireland, Belgium and Holland.

This particular typology works if viewed from a constitutional perspective with a Catholic bias. Seen from a north European angle and a Protestant bias a slightly different typology might make better sense⁴:

² Joel S. Fetzer and J.Christopher Soper, *Muslims and the state in Britain, France and Germany*, Cambridge: Cambridge University Press, 2005.

³ See, for example, European Consortium for Church-State Research, *The legal status of religious minorities in the countries of the European Union*, Milan: Giuffrè, 1994, and G. Robbers (ed.), *Stato e Chiesa nell'Unione europea*, Baden-Baden: Nomos, 1996.

⁴ See E. Vetvik, "Religion and state from a western Christian perspective", in J.S.Nielsen (ed.), *Religion and Citizenship in Europe and the Arab World*, London: Grey Seal, 1992, pp.7-24.

1. There is a *laicist* type with a sharp separation between church and state, as in France and the Irish Republic. Over the last several decades the Netherlands has moved in this direction.
2. The concordat type following the Napoleonic precedents, including countries like Italy, Spain and Portugal, even though legislation has in some cases moved beyond this.⁵
3. Countries with some form of domestically arranged 'establishment'. These can be sub-divided into two types:
 - a. There are the countries where churches, and occasionally other religions, function within the legal frame work of some kind of recognition, whose privileges usually extend equally to all recognised churches. This applies in countries like Austria, Germany, and the Alsace-Moselle region of France, to Wales and Scotland and to the 'free churches' in England (although see the discussion later in section B below).
 - b. Other countries have churches which are somehow incorporated, in varying degrees, within the state structures. Denmark is probably the purest example of this, and England would fall into this category as well, at least as regards the Church of England

Recently, a major critique of such traditional typologies has been suggested by Silvio Ferrari⁶. He argues that, while they may describe the constitutional positions, they are of

⁵ Spain in particular has moved since the restoration of the monarchy; see A. de la Hera and R. M. Martínez de Codes (eds.), *Spanish legislation on religious affairs*, Madrid: Ministry of Justice, 1998.

little use in analysing the situation on the ground, and that they attribute excessive importance to legal and constitutional arrangements which are often, in fact, fossils with little practical impact. One might give as an example the sharp contrast in realities between France and the Irish Republic, both of which have a regime of separation or *laïcité*. Building on the work of François-Georges Dreyfus⁷, Ferrari suggests that it is much more profitable to talk of a European model in which differences among the various countries should be considered under three themes:

1. The protection of individual rights of religious freedom, a tradition which has grown out of European history since the 18th century and is currently expressed in article 9 of the European Convention on Human Rights.
2. The degree of withdrawal of the competence of the state in religious matters and the autonomy of religious confessions.
3. Selective collaboration between the state and religious confessions.

The proponents of this approach are explicit that this model is a west European one, one which arises out of the history of medieval Catholic Christendom, and that it therefore does not transpose readily to eastern – Orthodox – Europe, nor by implication to the Muslim world. One can quickly begin to raise question marks against this model. Were the traditional Scandinavian Lutheran state churches not basically as Constantinian in the equation between church and nation as are the Orthodox churches? Or is this to read a

⁶ In his chapter “The legal dimension” in Brigitte Maréchal, Stefano Allievi *et al* (eds.), *Muslims in the enlarged Europe: Religion and society* (Leiden: Brill, 2003), pp.219-254.

⁷ “Le protestantisme contre l’Europe”, in G.Vincent and J.-P.Willaime (eds), *Religions et transformations de l’Europe*, Strasbourg: Presses Universitaire de Strasbourg, 1993, pp.127-141.

modern understanding of nation into an Orthodox tradition where it meant something significantly different, at least until western concepts of nation were absorbed by the peoples of Orthodox Europe?

There are apparently contradictions between the analysis of Ferrari, on the one hand, and Fetzer and Soper on the other, but they can be attributed to the different scholarly disciplines out of which they come. For the lawyer, the legal situation is the most important, and Ferrari's argument essentially is that in this regard there are other developing dimensions of the law which are actually more influential than the traditional constitutional positions. For Fetzer and Soper it is the public assumptions of what is 'right', and the channels of accommodation which such assumptions prefer, that are most influential in the socio-political process of integration.

The major challenge to traditional models is, of course, the new Muslim presence within the countries heir to western Christendom. The rest of this paper is an attempt to test this model against the realities of the growing presence of Islam and Muslim communities and their organisations. To do this with reference to Britain and France is a particularly good test of the model, since in the traditional typologies, the two countries are often given as examples of markedly different types. If one then considers further that the two countries have by many commentators been cited as models of two distinct, sometimes mutually exclusive, approaches to the integration (or is it assimilation?) of Muslim settlers⁸, comparing the two countries should be particularly interesting.

⁸ A prominent example of this distinction is to be found in Gilles Kepel, *A l'ouest d'Allah*, Paris: Seuil, 1994.

B. The historical background

The point at which the French and British histories of the relationship between the emerging nation state and religion diverged can symbolically be located in the Reformation, or more specifically in Henry VIII's decision to withdraw England from the authority of Rome. But this is to oversimplify a divergence which had roots in significant social changes, particularly in England where economic and social power were increasingly moving away from the court and the landed aristocracy to the independent rural gentry and increasingly assertive urban merchant interests and their corporations. While French royal absolutism reached its peak in the 17th century, these new socio-economic interests founded the short-lived Cromwellian Commonwealth. The growing urban and rural middle classes were a fertile ground for the appearance of various 'non-conformist' or 'dissident' Protestant movements, including the conglomeration of the so-called Puritans who were the core of the Parliamentary revolt against Charles I and the establishment of the Commonwealth in 1649. The loss of English royal predominance was confirmed in the 'revolution' of 1688-9. By this time England was already having to come to terms with a *de facto* religious pluralism. The attempts early in the century to impose Anglicanism had succeeded in the crackdown after the failed Powder Plot in 1605 in condemning Catholics to effectively two centuries of exclusion..

While similar economic developments were taking place in France, the surviving strength of feudal hierarchies of dependency were such that the monarchy was able to assert its enormous power, reaching its peak under Louis XIV, co-opting the aristocracy into a continued stifling of the independent urban development of craft and commercial activities, where state monopolies were given a much greater role than they ever had in Britain before the 20th century. In these circumstances, the religious pluralism which had continued to exist in France since the Treaty of Nantes became increasingly precarious. The final step of divergence between the two countries in this domain came when, in 1685, the supremacy of the Catholic church was asserted with the revocation of the Treaty of Nantes and the exile of the Huguenots, much to the economic benefit of Britain and other neighbouring countries..

From a European perspective, it was increasingly Britain which was out of step in its attitude to public religion. The 1648 Treaty of Westphalia, with its principle of *cuius regio, eius religio*, had confirmed the single-religion state as the norm. With the acceptance that it was for the ruling prince to determine what that religion should be, Westphalia also represented a historic retreat in the powers and aspirations of the Papacy to interfere in the politics of western Europe. So while the rest of the continent established a pattern where one particular church essentially had a monopoly position backed by the political power, Britain a year later executed its king and embarked on a road which became increasingly plural.

The tensions between the *status quo* and the changing economic and social circumstances and the growing pressure of ideas associated with these changes contributed to the explosion of the French revolution in 1789. The stubborn defence by the Catholic church and its allies of its powers through the 19th century led to a degree of polarisation which was hardly known in Britain. Indeed, the pluralism of churches in Britain lent itself to a situation where specific churches could work with different social and political trends. So while significant parts of the Church of England hierarchy for long supported conservative forces, other churches supported the burgeoning movement for workers' rights and trades unions: it was not a contradiction in terms to be socialist and Christian. In France, on the other hand, the one official church had to carry within itself the tensions which in Britain could be dissipated among different denominations. Major sections of the socialist and republican movements became anti-clerical, sometimes viciously so, while the conservative establishment was defended by the Catholic hierarchy, often to the extreme discomfort of parts of the clergy and the flock.

One result of this historical process is that on one point Britain and France do share a distinction from much of the rest of western Europe. Neither country has a general legal regime for the recognition of religion such as applies, for example, in countries like, Austria, Belgium or Germany. In neither country is it possible to admit a religion or religious denomination to a pre-existing 'recognised' status from which predictable consequences flow. At various points in the past in Britain specific denominations have been accorded their own legal status. This has impacted on the status of the various Protestant Free Churches, the Jews and the Roman Catholic Church. The privileges

associated with such status differ according to denomination and according to which part of the United Kingdom one is dealing with. Thus the Church of England is the only one in which the priest acts as marriage registrar, while all other religions, whether governed by special legislation or not may apply to have an officer recognised as registrar. Another consequence is that when such denominations wish to make changes of substance to their constitutions, they may very well need new legislation. The most notable recent occasion on which this happened was when the Presbyterian and Congregationalist Churches in England and Wales wished to merge into the United Reformed Church, for which they needed a new act of parliament. Acts of parliament have also been required to legalise the decisions of the Church of England to ordain women priests.

In France, the link between state and religion was severed in 1905. The process leading to this was not without its bitterness, and the fact that the law became generally accepted must in part be attributed to the moderation of the socialist leader Jean Jaurès who faced down the hard-line demands of the anti-secularist trends within his movement. In fact, the law did not implement a complete divorce between state and church in that the state retained residual financial responsibilities for the up-keep of buildings in existence at the time of separation. In addition, the law only had domestic function, so the extensive interests of the French state in international church affairs continue to this day. Treaties between the Vatican and France continued to fall under the responsibility of the religious affairs department of the foreign ministry, as did French ecclesiastical possessions abroad, some of which were church buildings with their staffing and work. It should be noted, also, that the Alsace-Moselle region had been under German rule in 1905, and that

when it returned to French sovereignty at the end of the first world war the region retained the church-state relations which had developed in the period since 1870, centrally the provision of a status of recognised religion with public financing. This applies to the three *départements* of Moselle and Upper and Lower Rhine.⁹

In both countries religious groups, which did not have legal status as such, functioned under such laws regarding association which applied from time to time. But by this time Muslims had begun to arrive and settle, and further discussion has to take this new dimension into account.

C. Early moves and the beginning of labour migration

In both countries, the arrival of people of Muslim background was directly associated with the spread of imperial power.¹⁰ Britain's presence around the coast of Africa and in the Indian subcontinent had brought natives of those regions to the imperial centre. It is difficult to describe this process in general terms. Some of the people who came were from the social elites. They were from chieftainly families in west Africa or sons of Indian princes, themselves using the imperial sea routes to do their own bit of exploring. Often they came as partners in commercial deals. Some were themselves traders taking

⁹ See Brigitte, Basdevant-Gaudemet, "Islam in France", in Roberta Aluffi B.-P. and Giovanna Zincone (eds.), *The legal treatment of Islamic minorities in Europe*, Leuven: Peeters, 2004, pp.59-81.

¹⁰ It should be noted that it did not start with empire, see Nabil Matar, *Islam in Britain 1558-1685*, Cambridge: Cambridge University Press, 1998.

advantage of the long-distance opportunities which imperial communications opened up. Many were from the opposite end of society, people who signed on for some of the most uncomfortable jobs on ships. Many were only temporary visitors to Britain, but inevitably some settled where they had landed in Britain.

The watershed in this story was the opening in 1869 of the Suez Canal. The British sea route to India very quickly moved from going round the Cape to passing through the Red Sea. Britain established a coaling station in Aden on the Yemeni coast.¹¹ There was extensive traffic of both goods and people across the narrow stretch of sea between Arabia and Somalia on the other side. Soon British ships were picking up cheap Yemeni and Somali labour, boarding in Aden and often staying in Britain when they were signed off at the end of the trip. Cardiff and South Shields, near Newcastle, soon had noticeable settlements of Yemenis and Somalis. Liverpool had already started to build up a population of West Africans, while everyone could be found somewhere in London.

The nature of the small developing community leaderships in the various places were a major factor in the beginnings of visible Islam in the country. The Yemeni and Somali communities brought with them a particular Sufi order, namely the North African 'Alawiyyah. The community collected around the practices and networks of this order. It was not a wealthy community, and it had very little access to any form of leadership which could mediate with the host society. So they tended to be found in small converted

¹¹ A brief survey of this history is to be found in my own *Muslims in Western Europe*, 3rd ed. (Edinburgh: Edinburgh University Press), 2004, pp.4-6. Basic bibliography for what follows is to be found in the 'Bibliographical essay', pp.177-191. A more detailed account is in Humayun Ansari, *The infidel within: Muslims in Britain since 1800*, London: Hurst, 2004.

premises where they held worship and taught their children. Some began to move inland to the industrial cities – the first recorded Muslim place of worship in Birmingham was a house converted in the early 1940s. By contrast, London and Liverpool saw the first formal mosque developments. At the initiative of a small group of Indian and British aristocrats, the Shahjehan Mosque opened in 1889 in the southwest London suburb of Woking. The Woking Muslim Mission had strong Ahmadi connections. It was only later, as the rift between the Ahmadiyyah and mainstream Sunnism became a gulf, that the Woking mosque became marginal to developments in London. At the same time in Liverpool, an English convert known as Abdullah Quilliam pulled together the people and resources to convert a row of terraced houses into a mosque and Islamic centre. Quilliam had travelled around the Mediterranean, and a few years before the outbreak of the first world war was made Shaykh al-Islam of Great Britain by the Ottoman Sultan.

The outbreak of war diverted attentions elsewhere. The Liverpool centre closed and Woking became marginal. But plans were started by a group of Indian and Arab notables to establish a Central Mosque for London. By the 1940s this plan had gained support in government circles, and plot of land was set aside for the project by King George VI on the edge of Regent's Park. Delays and changes of sponsorship meant that the project was not completed till the mid-1970s.

The Muslim presence in France is equally the product of empire, and quite centrally the Algerian experience, one which was always much more fraught than Britain's with India. France took control of Algeria over a ten-year period from 1830 till 1840 against active

and strong opposition led, in the name of Islam, by ‘Abd al-Qadir al-Jaza’iri. Over the following decades France engaged in an active policy of colonising the region with French settlers, at times also in a close partnership with a Catholic hierarchy which had its own aggressive missionary policy. These inauspicious beginnings set a tone which still today is a significant factor in North African Muslim perceptions of France.

The first immigrants into France from North Africa found employment partly in the olive oil industry of the south and partly in the mining industry of the north-east. While some of the migration was voluntary, there was always an element of indentured labour. This was particularly the case during the two world wars, in the second of which, for example, the Vichy French authorities provided Algerian labour for the Germans building the Atlantic Wall. However, another dimension was the use of colonial troops in the first world war trenches. It was in recognition of this contribution to the war effort of both troops and requisitioned labourers from across North Africa, some 200,000 in all, that the French government soon after the end of the war decided to support the building of the Paris Mosque. Run by trustees representing Tunisia, Algeria, Morocco and Senegal, the building was opened in 1926, ironically in the year that the 1905 separation of state and church came of age.¹²

But France not only attracted – or requisitioned – labour migration. From an early stage during the 19th century France, especially Paris, was regarded across the Mediterranean as an intellectual and cultural centre of some importance, much more so than Britain. As

¹² Alain Boyer, *L’Institut Musulman de la Mosquée de Paris*, Paris: CHEAM, 1992.

part of his project to build up the autonomous power of Egypt, Mehmet Ali send student missions to Europe, and above all to Paris, to learn language and later technology. Of course, they brought back much more, making a significant contribution to Arab cultural renewal, especially in the Middle East.¹³ As Britain's power grew in the region towards the end of the century, Paris also became a popular resort for individuals whom the British exiled from Egypt. Thus the great Muslim reformers Jamal al-Din al-Afghani and Muhammad 'Abduh jointly founded their journal *Al-'Urwa al-Wuthqa* while exiled in Paris.

Labour migration into France continued to develop steadily during the interwar period and, after the second world war break, again after 1945. Until the outbreak of the Algerian War of Independence, most of this immigration was Algerian. Many were beginning to bring families. Although Algeria was legally constituted as part of metropolitan France, Muslims were subject to disabilities which effectively gave them a kind of second class citizenship. It was among these Algerian communities in France that the impetus for Algerian independence came, and they provided it with major financial and political support, against which the French authorities cracked down hard. During 1957 alone 40,000 were imprisoned.

It was only during the 1960s that labour migration into France began to spread significantly beyond Algeria, first incorporating large numbers from Tunisia and Morocco and then from parts of French West Africa, above all Senegal. By the end of the

¹³ See the early chapters in Albert Hourani, *Arabic thought in the liberal age, 1798-1939* (London: Oxford University Press, 1962).

1980s, statistics indicated that Moroccans had almost caught up with Algerians.

Following an agreement with Turkey signed in 1966, Turkish immigration also became a major element, especially in the north and east.

At roughly the same time Britain was experiencing its first major period of immigration from Muslim countries. Once the economy picked up after the end of the war, the main sources of labour from outside the British Isles was the Caribbean and then India. Only at the end of the 1950s, in part directly encouraged by the debate which led to the entry restrictions of the Commonwealth Immigrants Act in 1962, did the Pakistanis start arriving in large numbers. At regular intervals thereafter the Empire returned to haunt the now diminished former metropolis: Cypriots leaving the uncertainties of ethnic strife on the island, East African Asians expelled from Kenya and Uganda, Somalis seeking better alternatives to their impoverished existence at home.

D. Islam arrives

It is not my intention here to go into great detail about the settlement and appearance of Muslim communities in the public space in the period of the 1960s to 1980s. This has been extensively covered in a fast-growing literature¹⁴. But before proceeding to the key

¹⁴ Apart from my own book, cited in note 11 above, mention should be made of F. Dassetto and A. Bastenier, *Europa: nuova frontiera dell'Islam* (Rome: Lavoro, 1991). Extensive bibliographies are to be found in F. Dassetto and Y. Conrad, *Musulmans en Europe Occidentale: Bibliographie commenté* (Paris: L'Harmattan, 1996), W.A.R. Shadid and P.S. van Koningsveld (eds.), *Religious freedom and the position of Islam in Western Europe* (Kampen: Kok Pharos), pp.127-223, and Maréchal, Allievi *et al* (eds.), *Muslims in the enlarged Europe*, pp.542-577.

discussion of the very public interaction between Islam and the state since the late 1980s, it is necessarily to sketch out very briefly the main characteristics of the settlement process.

Apart from the few highly-profiled initiatives mentioned earlier, there was little public evidence that these newly settling populations were Muslim. It was as a direct result of the imposition of restrictions on labour immigration, in 1962 in Britain and a decade later elsewhere, that the conditions were created which encouraged Islam into the public space. The continuing facility for wives and children to enter, even when economic migration had been severely restricted, meant that a much broader area of everyday culture and custom was imported into Europe with the process of family reunification. It was the ritual and educational needs in particular of the young Muslim families which initially gave the spur to the formation of Muslim organisations, and thence the intrusion of Islam into the public space. The conversion of property into mosque use (to be followed later by the building of new mosques), usually associated with various forms of Islamic instruction, took off quite markedly almost immediately after the gates of labour migration were closed. The establishment of mosques and associated institutions was soon followed by the appearance of special-interest organisations, which usually migrated into Europe along the routes of the personal and community migration. So Muslim movements, as well as ethnic and political ones, which existed in the country of origin began to set down roots in the country of adoption.

One effect of this development was that Muslim groups soon had to find their way into the organisational patterns of the new environment. In France this was, for many years, not easy. The formation of voluntary associations was governed by a law of 1901 which essentially confirms the free right to organise subject to a simple procedure of registration which protects the organisation against official interference except in very limited and specific circumstances. However, during the 1930s the government had responded to the rise of fascist movements inspired by Italy and Germany by imposing tight restrictions on the right of foreign residents to form associations under the 1901 facility. The procedure included, in the case of Muslim organisations, a process of vetting by the religious affairs department of the foreign ministry. In 1989 the disabilities imposed on foreigners associating were abolished. Immediately there was an explosion in the number of Muslim associations. At the same time, the 1905 law of separation allowed for the creation of associations with a cultural purpose with the significant advantage of being entitled to tax relief.

Britain's approach to the formation of voluntary associations appears superficially to be very different. There is no requirement of registration under a law of association, which does not exist. Rather there are a variety of laws under which an association can function if it wishes to. If it is merely a matter of having a bank account, no more is required than three signatures authorised by a resolution of the association. If an association wishes to 'trade', i.e. to receive money from grant-giving bodies, private or public, or through public fund-raising, and to spend such income, the law does become involved, usually in the form of a requirement to register under the Companies Act. If the association wants

tax privileges it has to register as a charity with the Charity Commissioners, which over the last two decades have become increasingly pro-active in exercising their duty of oversight both as regards activities and proper financial accounts. But in essence, although the legal and administrative regimes show marked differences, one must conclude that these are essentially differences of form rather than of substance. The freedom to associate, also for religious purposes, is fundamentally permissive.

A word should be said briefly about religious interests in the education system since this has often been a central dimension of the expression of Islam in the public space. Here there is undoubtedly a significant difference between the two countries.¹⁵ Given the nature of the 1905 settlement in France, the state cannot provide funding for schools run by religious organisations. The Catholic church manages an extensive network of ‘free schools’, and a few attempts have been made to establish similar, privately-funded Muslim schools. In England, the 1944 Education Act represented a deal between state and church, whereby the churches retained residual control over their schools with varying degrees of in-put into religious education in exchange for handing over the general responsibility to the state. Subsequent education acts have not substantially altered this situation even though new forms have been introduced. In principal, publicly funded Muslim schools were permissible under this legislation although political opposition meant that it was only in 1998 that the first two were authorised.

¹⁵ Accommodation to Muslims in the educational sphere is the main test used by Fetzer and Soper, *Muslims and the state*, in their comparison of Britain, France and Germany; see especially pp.130-145.

E. Testing the bounds

Throughout this period of settlement, there was a general belief that while the two countries were facing a new phenomenon it was not something of major significance, and that it could be integrated comparatively painlessly with only minor adjustments to make space for the occasional peculiarity. In Britain, in fact, the public and political debate throughout this period was expressed in terms of race relations. Home Secretary Roy Jenkins famous statement defining multiculturalism was made precisely in the context of a race relations, not a religions, discourse: 'cultural diversity, coupled with equal opportunity, in an atmosphere of mutual tolerance.'¹⁶. The French discourse remained overwhelmingly that of the *république laïque* with the expectation of assimilation into an open and liberal understanding of 'Frenchness'. During the 1980s it was the Catholic church, not Islam, which was the main source of challenge to this consensus in the context of proposals that the state should contribute to the financing of the 'free schools'.

The year 1989 was a watershed with the 'Rushdie affair' breaking out in Britain at the beginning of the year and the 'headscarves affair' in France in September.¹⁷ In both countries, the main immediate pressure was demography. The children of the immigrants had grown up in Europe, usually had citizenship, they had expectations of economic and

¹⁶ Quoted by Kenan Malik, 'The trouble with multiculturalism' in *Spiked-politics*, 18 December 2001, on <http://www.spiked-online.com/Articles/00000002D35E.htm>, accessed 27 May 2005.

¹⁷ An early, but still worthwhile account of particularly the Bradford environment out of which the Rushdie affairs first sprang is Philip Lewis, *Islamic Britain: religion politics and identity among British Muslims*, London: I.B.Tauris, 1994. A useful summary of the issues behind the 'headscarves affair' is Chris Barrett, "Confrontation at Creil: secularism, multiculturalism and 'headscarves affair' in France", *Case Studies for Politics*, no.25 (1996), University of York, Department of Politics.

political participation, and they were frustrated. In Britain it was the 6-15 year-old age group of Pakistani origin which was the largest ten-year group recorded in the 1981 Census.¹⁸ That group was by 1989 in its teens and early 20s. A similar demography applied in France. In both countries, unemployment among the ethnic minorities was higher than the national average, and young people coming into the labour market were experience often blatant racial discrimination. In France the affair coincided with the bicentenary of the French Revolution, a event which, at the same time as it celebrated certain aspects of French identity, particularly the republican, left other parts of France, such as the Catholic tradition, ambivalent and, in the case of Muslims, excluded.¹⁹ The challenge of the campaign against Salman Rushdie in Britain was to the liberal establishment, and of the headscarves in France to the republican establishment.

In both countries there were parallels in the responses. Public debate suddenly discovered Islam as a domestic cultural factor. Despite the subsequent cries of 'Islamophobia' the debate was not monolithic. Secularist politicians and intellectuals in both countries condemned the activation of an Islamic dimension, and some launched an all out attack on Islam as such, calling to mind both medieval and modern caricatures and stereotypes. Others were clearly unhappy with developments but were more circumspect in their public expression. It was noted that Roy Jenkins wondered allowed about the wisdom of his earlier advocacy of multiculturalism. But there were also many who claimed to see hypocrisy and double standards in the way Muslim citizens were being attacked for

¹⁸ Office of Population Censuses and Surveys, *Census 1981: Country of Birth, Great Britain* (London: HMSO, 1983).

asserting their right to voice an opinion in public. Many also argued that Muslims were only asking for rights and considerations which others took for granted.²⁰

Perhaps the most important consequence of the affairs was, however, that Muslims had effectively claimed their right to a place in the public space. Publishers and media outlets began to take Muslim sensitivities into account in a way they had not done before. I might just quote the example of a Danish national newspaper editor who introduced a policy in relation to reporting on Muslim affairs which she called the 'Jew test'. It required that anyone writing about Islam and Muslims should test the appropriateness of what they were writing by replacing 'Muslim' with 'Jew'. Like her, the media in France and Britain, possibly more in the latter than in the former, were beginning to adopt the sensitivity towards Muslims which had previously become a habit in relation to Jews.

The response at the official level was even more remarkable, although its character was obviously influenced by the different public structures and processes in the two countries. It could be argued that the French government was initially more forthcoming than the British. Already in early 1990, the minister of the interior established a Conseil de Réflexion sur l'Islam en France (CORIF). For the two years it functioned in practice it considered practical issues such as dates for the fast of Ramadan, and public provision for Muslims such as access to burial and food and chaplaincy provision in prisons and the

²⁰ Samples of this debate in connection with the Rushdie affair is to be found in 'The "Rushdie Affair" – a documentation', *Research Papers: Muslims in Europe*, no.42, June 1989, 40pp, and in M.M.Ahsan and A.R.Kidwai (eds.), *Sacrilege versus civility: Muslim perspectives on 'The Satanic Verses' affair*, Markfield: The Islamic Foundation, 1991.

armed forces.²¹ A change of minister led to a change of policy towards the creation of a unified representative Muslim council led by the Paris Mosque and Islamic Institute. It was clear that one dimension of this French policy was to encourage the creation of a ‘moderate’ integrated Islam, and the authorities therefore welcomed the issue in December 1994 of the ‘Charte du culte musulman en France’.²² The trouble with this approach was that the leadership of the Paris Mosque and its director were never accepted broadly by the various parts of the Muslim community, with opposition collected around the Union des Organisations Islamiques de France(UOIF) and the Fédération Nationale des Musulmans en France (FNMF), both of which had a growing following of young people. Any attempt to pull these various trends together was blocked by the outbreak of the Algerian civil war following the aborted elections in 1993. For much of French public opinion as well as for significant sections of the authorities, Islam now became an issue of security, especially following several fatal bomb attacks in Paris in the mid-1990s which were attributed to Algerian Islamist underground organisations.

In the meanwhile, a number of school directors continued to ban head scarves, the cases ending up in the Conseil d’Etat which usually, though not always, threw out the ban. At the beginning of the 1994-5 school year the government issued a directive authorising school directors to ban the wearing of religious symbols so ostentatious as in themselves

²¹ For this section see B. Basdevant-Gaudemet, ‘The legal status of Islam in France’, in S. Ferrari and A. Bradney (eds.), *Islam and European Legal Systems*, Aldershot: Ashgate, 2000, pp.95-124.

²² For an English translation see “Charter of the Muslim Community in France”, *CSIC Papers: Europe*, no.17, 1996.

to constitute proselytism. This was followed by a series of bans, some of which were upheld and others not.²³

Official response in Britain to Muslim assertiveness in the public and political field was much more gradual. This was no doubt related to the fact that there was not one single issue, such as the wearing of headscarves, which became the symbolic nodal point of the whole debate. It is, in fact, rather ironic that the headscarf did not become such an issue, considering that Britain is the only western European country with a school uniform tradition. One could advance several reasons for this being the case. School uniform had been an issue during the 1970s when the first great influx into schools of the children of immigrants took place. But it was difficult for it to find a distinct focus which might catch the public imagination. The school population was diverse, and school dress issues were dissipated in various directions: the dress requirements of Asian girls (with or without headscarf), turbans for Sikh boys, hair styles across both sexes and the various ethnic groups.²⁴ By the mid-1980s most local education authorities, which at that time was where such decisions were taken, had adopted flexible uniform policies allowing for cultural variations governed by common colour rather than design codes.

During the first part of the 1990s the Conservative government was in many ways the main obstacle to the greater involvement of Muslims in the political space. My own view

²³ A comparative discussion of Muslims and European education systems can be found in Brigitte Maréchal, “Modalities of Islamic instruction” in Maréchal, Allievi *et al*, *Muslims in the enlarged Europe*, pp. 19-77.

²⁴ It is probably not unreasonable to suggest that the path to tolerating Muslim girls wearing headscarves had been pioneered by Sikh men demanding the right to wear turbans: Sikh regiments had been among the elite of the British Indian army – and they were men.

is that this government reluctance to respond was one reason for the various head-line grabbing Muslim initiatives of the early years of the decade. In 1990 the UK Muslim Parliament was established at about the same time that a group of mostly British converts established the UK Islamic Party. The presence of these groups in the media did not match their success in attracting support among the Muslim communities. More successful in the long term was the UK Action Committee on Islamic Affairs (UKACIA), an alliance of various existing Muslim organisations initially established to coordinate the Rushdie campaign. It was out of this alliance that, after careful preparation, a new Muslim Council for Britain (MCB) appeared in 1997.²⁵

During the last years of the Conservative government, while informal meetings began to take place between selected Muslim representatives and Foreign Office officials,²⁶ the main issue of Muslim interests in education was blocked on the question of recognition of Muslim schools within the publicly funded system. Muslim organisation had by 1994-5 begun to realise that while their attention had been concentrated on the Rushdie question, major changes had been taking place in the education system, starting with the Education Reform Act of 1988 and followed by the implementation of England's first national curriculum. They now began to put on the pressure for public funding for Muslim schools, gaining the support of local authorities and the ministry but ultimately running against the political decision of the Conservative Secretary of State. The new Labour

²⁵ For this and the following see my 'Muslims, the state and the public domain in Britain', in R.Bonney, F.Bosbach and T.Brockmann (eds.), *Religion and politics in Britain and Germany* (Munich: K.G.Saur, 2001), pp.145-154.

²⁶ Liat Radcliffe, "A Muslim lobby at Whitehall? Examining the role of the Muslim minority in British foreign policy making", *Islam and Christian-Muslim Relations*, vol.15 (2004), pp.365-386.

government brought in a much more friendly attitude. In January 1998, the first two Muslim schools gained recognition. A series of meetings took place between the Home Office and the MCB. Other ministries became involved. A habit of cooperation was being established which gave Muslims concrete results: amendments to bills in parliament, consular support during the pilgrimage in Mecca and Medina, Muslim chaplains in hospitals, a Muslim adviser in the Prison Service, etc.

Such cooperation also meant that both 'sides' were dealing with each other in a much more differentiated manner than had been the case a decade earlier. Both government and media were careful not to equate incidents of Muslim acts of actual or planned violence with the Muslim community as a whole or Islam as such. Likewise, Muslim organisations and spokespersons were careful to keep the bridges to government open when they disagreed with specific government policies and decisions.

The 1990s were, however, introducing also seeing the introduction of a disturbing new dimension which can be focused under the heading of security. The Algerian civil war, which started after the cancellation of election results in 1993, quickly spilled over into France, especially after explosions on the Paris metro in the middle of the decade. Slightly later, the British authorities began to review their policy towards Islamist radicals, particularly those given asylum in the country but also with a view to their potential impact on young British-born Muslims. France had long had a much more aggressive approach to the balance between civil and religious rights and the needs of internal security than had Britain, and Britain's alleged 'softness' towards, in particular,

radical Islamist asylum seekers was behind French caricatures about ‘Londonistan’ during the 1990s. After the dissident IRA bombing of Omagh in Northern Ireland, parliament passed new anti-terrorism legislation which was widely seen by Muslims as being in part targeted at them, after a number of terrorist incidents abroad, some involving British Muslims.²⁷ The terrorist attacks of 11 September 2001 moved the UK authorities into an even more aggressive attitude, and by the time of the attacks on London in July 2005, British government ministers were holding French attitudes up as a model.

F. Conclusion – exaggerated contrasts?

It has become common, as I intimated briefly at the beginning of this paper, to cite Britain and France as having adopted contrasting approaches to the new ethnic and religious pluralism. France follows the republican ideals of liberty and the individual rights of the *citoyen*, and it is as such that the newcomer is expected to integrate. The settlement of 1905 created a demarcated private space for religion. Opponents of the ‘French way’ have accused it of being assimilationist, and certainly some of the petty harassment to which people are exposed could be cited to support the accusation. The headscarves of Muslim women and the big beards of the men are cited, including by officials dealing with citizenship applications, as evidence of refusal or reluctance to

²⁷ See *British Muslims Monthly Survey*, September 1998, p.1.

accept the principles of the republic.²⁸ But French politics and government administration are also driven by at least some of the pragmatism which is often cited as the British characteristic.²⁹ The realities of the situation in the aftermath of the 1989 headscarves affair was that some remedy had to be found to calm tempers. The Conseil d'Etat helped, partly by not being predictable. The Ministry of the Interior sought to influence circumstances by engaging in negotiations with Muslim organisations and specifically by sponsoring the establishment of favoured ones, with only a modicum of success. But the active involvement of the government, as well as competition between the interior and the foreign ministries at certain points, while being far from meeting the wishes of significant Muslim sectors, did send the message that official France could also engage in the 'communalist' approach which was supposed to be the British prerogative. When the Algerian war then threatened to take priority over all other considerations, different parts of the Muslim sector were prepared to respond. By the end of the 1990s several of the key individuals on the Muslim side, also those associated with groups like the UOIF and the FNMF, were ready to participate in a working group with the Ligue des Enseignants (the teachers had always been among the strongest institutional defenders of *laicism* and the 1905 settlement) discussing Islam and laicism.³⁰

²⁸ The group of consultants working on Religious and Cultural Aspects of Equality of Opportunities for Immigrants for the Council of Europe, which I chaired, was shown copies of such letters during its fact-finding visit to Paris in October 1995. The group's report was published in January 1996 as Council of Europe doc. MG-S-REL (95) final.

²⁹ N. Rouland talks of 'firmness in principle, and flexibility in practice', "Les politiques juridiques de la France dans la domaine linguistique", *Revue française de droit constitutionnel*, vol. 35 (1998), p.531, cited in Open Society Institute, *Monitoring the EU accession process: minority protection, vol.2, Case studies in selected members states*, Budapest: OSI, 2002, p.71.

³⁰ As debate sharpened in the late 1990s, the Ligue des Enseignants withdrew its sponsorship of the working group which continued to meet independently, holding a series of seminars recently published as *Islam de France, islam d'Europe*, Paris: L'Harmattan, 2005.

Through the 1980s and the early 90s Britain, on the other hand, was only to a limited extent living up to the ‘communitarian’ stereotype. With a few exceptions, central government refused to deal with the Muslim community in any kind of collective form. Some local governments, on the other hand, through this period developed an experience precisely of such collective dealings.³¹ It was only with the Labour accession to power in 1997 that this approach impacted seriously on central government. But at the same time, the individual rights approach, which had never been the strongest dimension of British public life, received a boost with the introduction into UK law of the European Convention on Human Rights through the Human Rights Act 1998 (it came into effect in 2000). One should also note a point which there has not been the space to deal with in this essay, namely the distinct differences in judicial practices in the two countries, due in large measure to the strong common law tradition in Britain, which allowed judges to exercise much greater discretion in taking cultural peculiarities into account, especially in dealing with family relations.³² One could argue that such a flexible approach is, in fact, more ‘individualistic’ than the ‘same rule fits everyone’ approach common to the Napoleonic legal systems of mainland Europe.³³

³¹ See my ‘Islam, musulmani e governo britannico locale e centrale: fluidità strutturale’, in J.Waardenburg *et al*, *I musulmani nella società europea*, Turin: Fondazione Giovanni Agnelli, 1994, pp.143-156. English version in *idem*, *Towards a European Islam*, London: Macmillan, 1999, pp.36-46.

³² S.M.Poulter, *English law and ethnic minority customs*, London: Butterworth, 1986, provides extensive illustration of this.

³³ Here it is worth noting that increasing cultural pluralism may be inducing ‘napoleonic’ courts to resurrect elements of common law approaches, according to M.-C. Foblets in her chapter ‘Muslim family laws before the courts in Europe: a conditional recognition’, in Maréchal, Allievi *et al*. *Muslims in the enlarged Europe*, pp.255-284.

So what does one conclude in relation to the three themes for analysis identified at the beginning? It seems, to me at least, that the traditional typologies are really not useful in seeking to compare France and Britain, certainly not any longer. They did reflect the quite sharp distinctions which appertained until the beginning of the 20th century, even though it was only with the 1905 settlement in France that the paths reached the full extent of their divergence. Since 1945, however, those paths have not so much re-converged as become irrelevant.

The individual rights of religious freedom laid down in the European Convention now have equal standing in both countries. They may administer them differently, but this does not change the substance. In fact, it is arguable that both countries face the same challenges in this field, namely the boundary between the collective rights of the state and its inhabitants as a whole and the individual right to religious freedom. This has to do with definitions of what constitutes religion and the debate over the function and place of religion in the public space, not to mention where one draws the line between the private and the public space. These are questions which all of Europe and North America are having to deal with, and an obvious conclusion is not yet in sight.

Both countries clearly accept and generally function on the principle that the state has only limited competence in religious matters and only limited right to interfere in the autonomy of religious confessions. In Britain, some of that state competence continues to be laid down in law, especially in relation to the older, mainstream churches. But in

France there is also legislation, including that of 1905, which specifies areas of state competence.

More important is probably the acceptance that informally the state has a legitimate interest in the affairs of religions. In some ways this may mark the strongest contrast between the past and the present, while at the same time marking the closest convergence between the two countries at present. Essentially, the state has retreated from its claim to dominance in religious affairs. This was the claim which was so vigorously opposed in England in the 17th and 18th centuries, including by those who laid the foundations for the United States of America. The contest was more polarised and lasted longer in a religiously less plural France.

Perhaps the major contrast between the two countries today actually has much less to do with religion than with ethnic pluralism and race and their interaction with religious pluralism. In France, the numerical predominance of Islam among immigrants and ethnic minorities has tended to create a situation where public perceptions easily equate ethnic minority and Islam: the race question becomes inseparable from the issue of Islam. In Britain the much more notable presence of other religions such as Sikhism and Hinduism, and above all the prevalence of Christianity in many different forms of expression among Afro-Caribbeans, makes for a much more complex situation. Race is not nearly so simply equated with one particular religion, and the ethnic mix makes it more difficult to identify Islam with one ethnic minority group. This contributes to a much more fluid public perception and debate as well as leaving space for individuals and groups to develop a

broader range of identity options in the public space.³⁴ However, the focus on security since 11 September 2001 has introduced a further factor towards convergence, but that falls outside the scope of this overview.

³⁴ An essential discussion of this is to be found in G. Bauman, *Contesting cultures: Discourses of identity in multi-ethnic London*, Cambridge: Cambridge University Press, 1996.