Cover Page

**Universiteit Leiden**

**Leiden University Repository**

The handle http://hdl.handle.net/1887/36569 holds various files of this Leiden University dissertation.

**Author:** Zee, Machteld Eveline
**Title:** Choosing Sharia? Multiculturalism, Islamic Fundamentalism and British Sharia Councils
**Issue Date:** 2015-12-01

## Conclusion

This dissertation revolved around the question what the implications are of the political ideologies of multiculturalism and Islamic fundamentalism, and, more in particular, what the interaction is between these ideologies when it comes to the debate on the legitimacy of sharia councils in the United Kingdom.

The rhetoric of multiculturalists and fundamentalists combined results in a reactionary movement with religious identity politics at its core. Multiculturalists promote the ideology that members of minorities should not be harmed by non-recognition, that the focus should be on either respect or toleration, and that minority cultures must not be criticized by the dominant majority which has the obligation to preserve minority cultures. Preservation is achieved by allowing or stimulating a Muslim legal order that stands apart from the host society's. It undermines and re-orders Britain's secular and democratic character. Multiculturalists aim to do so out of a presumably well-meant gesture towards minorities, whereas fundamentalists do so driven by divine command.

There is a wide range of Islamist ideologies and movements, but there are significant commonalities among fundamentalists. They believe in the imposition of Islamic laws, also called Sharia. The core of this Islamic fundamentalism is a theologically justified political goal of saving and purifying society by means of establishing a Sharia state in which the Umma – all Muslims worldwide – is unified. This Sharia state can be achieved by means of terror, by a political takeover, or by a bottom-up approach. In the West, the aim is to form disciplined diasporic communities ruled by these laws.

It needs to be acknowledged that Islamic fundamentalism exists, that it is increasingly present, and that it is something that deserves to be rejected. Especially as Islamic fundamentalism is increasingly gaining ground among European Muslims.

Since the 1980s, in the United Kingdom, Islamic family law has been informally institutionalized in the form of Sharia councils. These councils falsely operate under the flag of mediation and arbitration.

Contemporary multiculturalists advocate the position that accommodation of these councils is possible within the (legal) norms of the host society – either by stating that unacceptable parts of Sharia "have nothing to do with Islam", which is not true, or that parts of Sharia should not clash with human rights, which is not possible – particularly with regard to family law.

Both political ideologies challenge the state's sovereignty when it comes to laws for Muslim minorities in the West. In doing so, they cooperate closely in achieving, *de facto*, fewer rights for individuals, regardless of the amount of time spent on claiming otherwise.

The multiculturalist argument trades, at bottom, on a simple idea: namely, that "[…] being able to choose what to believe and how to live […] makes for a better life. Being told what you must believe and how you must live, conversely, make lives worse."[584] It remains unclear why the "liberty of free choice" for Islamic fundamentalism in the form of Sharia councils should go uncontested. Moreover, the multiculturalist ideology aims to support emancipation and integration. It misses the mark. Multiculturalism as an ideology is not merely theoretically questionable, but also practically. For: if Muslim fundamentalists in Europe seek to enhance the goal of *more* fundamentalist Sharia for *more* Muslims through preaching and ideology, the multiculturalist ideology of not judging Muslim identity is nurturing just that.

The development of increasing Islamic fundamentalism worries many across the globe, and rightfully so. This development imparts the task of clear moral judgment on governments, (academic) elites and citizens. Multiculturalism with its focus on identity, being politically correct (that is, not cause offense), and its resort to relativism to rectify that what is wrong, is still an important force in the Western

---

[584] Leiter 2008, p. 7-8.

debate on Islamic fundamentalism. That is why it is important to take a critical stance towards both multiculturalism and Islamic fundamentalism.

It is right that fundamentalists *choose* to live under Sharia. Yet, multiculturalists tend to overlook the fact that they may tend to increasingly choose for that, if not challenged adequately. Moreover, if in the future the better part of society has voluntarily chosen for Islamic fundamentalism, we will see that free choice will cease to exist, as is more than ever the case in Malaysia, as we have seen. Or, in other words, the reason Western men and women have the luxury of debating in terms of "free choice" is precisely because they live in a liberal society that is committed to protecting equality.[585]

The absolute minimum someone who gets involved in the "multicultural debate" can do is acknowledge Islamic fundamentalism exists, is increasingly present, and is something that deserves to be rejected. Whether to tolerate or not to tolerate is a discussion in itself, but that is a discussion we can only functionally have if the multiculturalist position of not judging negatively and accommodating minority members' freely chosen actions is abandoned.

Coming at the end of my research it may be useful to position the view on Sharia councils as developed in this book against the broader background of five constitutional models on the relationship between state and religion. A state can categorically reject religion, enforce one specific religion, prioritize one particular religion, accommodate minority religions or try to be agnostic towards religion.

Generally speaking, a state can deal with religion, religious believers and religious communities in five ways. Firstly, there is the ambition to radically destroy every influence of religion in the social and political sphere. This model was popular in the Soviet Union between 1917 and 1989. This may be called "political atheism". It

---

[585] See also: Dunlap, Bridgette, 'Protecting the Space to Be Unveiled: Why France's Full Veil Ban Does Not Violate the European Convention on Human Rights', *Fordham International Law Journal* 2011, pp. 968-1026 (1025).

is mirrored by the equally radical approach to force one specific religion upon all others. This may be called "theocracy", a political interpretation of religious fundamentalism. The second chapter of this book is dedicated to the Islamist brand of religious fundamentalism.

Next to political atheism and theocracy, there is the model of a state church. This commonly implies a loose orientation on one specific religion to which the state has contributed a special task in politics without making overriding infringements on the rights of others. This is the model of a state church. Present day Anglicanism may serve as an example. Needless to say, compared to the other two models, the model of a state church is the least objectionable. But also this alternative is far from satisfactory.[586] The model of a state church is based on an inherently unequal treatment of all citizens – only those who happen to adhere to the state religion are represented.

The remaining two models are multiculturalism and political agnosticism. Multiculturalism is extensively described and analysed in the first chapter of this book, while political agnosticism is implicitly defended in all three chapters. The idea of political agnosticism is that the state should principally defend neutrality towards the religious choices of its citizens. The state is literally "agnostic" ("it does not know" in the sense of "it does not *want* to know") what its citizens believe with respect to religion. That also means the state has no positive or negative opinions or policies towards religious communities. However still, it is one of the state's core duties to develop and maintain a cohesive legal order that has similar consequences for all of its citizens alike, regardless of cultural or religious liaisons. Pushing for, or allowing, minority legal orders conflicts with the state's neutrality regarding religion. Within the multiculturalist and Islamic fundamentalist doctrine there is space for independent and conflicting legal orders within state borders. Yet, it is the politically agnostic state that aspires to maintain one law for all.

---

[586] Although not rejected by the European Court in Strasbourg. See: *Lautsi v. Italy*, (Application no. 30814/06), ECtHR 3 November 2009 and *Lautsi and others v. Italy* (Application no. 30814/06), ECtHR 18 March 2011.

We may call this position *political* agnosticism because it describes the attitude of the state and not the attitude of the individual. The notion of "agnosticism" arose within the context of the religious choices of the human individual.[587] An individual who considers him- or herself "agnostic" means that he or she does not make a choice between various religious options. The reasons for this may vary. One of the reasons often advanced by agnostics is that the arguments for the existence of God are not better but also not weaker than the arguments against the existence of God.[588] Individual agnosticism usually tries to steer a middle course between atheism on the one hand and theism on the other.

Beyond this specific agnostic stance regarding not being able to know whether there is a deity, the state should not decide whether individuals are better off (or not) as members of religious communities. Thus, for instance regarding pleas on behalf of preservation of minority religious cultures, the state has no opinion on whether adherence to a religion or membership of a religious community is either worthy of respect and should be nurtured, or that it is something that should be loosened and considered detrimental for personal development.

Whatever may be true about individual agnosticism, for the *state* this suspension of judgment seems a perfectly sensible course to take. Especially in a pluralist society the state can best adopt a religiously neutral attitude, as we have seen in the elaborate analysis of the dangers of religious fundamentalism or problems of encouraging and wanting to preserve minority cultures under multiculturalism.

Modern-day multiculturalists steer towards accommodating a minority legal order for religious minorities. Pleas of this sort are supported by religious fundamentalists, who also believe minorities should be ruled over by an independent body of religious laws. One of the most important consequences of political agnosticism was the focus of this book: the necessity to stick to a monocultural legal

[587] See Cliteur, Paul, 'Atheism, Agnosticism, and Theism', pp. 14-68, in: Cliteur 2010, pp. 14-69.
[588] See also Poidevin, Robin Le, *Agnosticism*. A Very Short Introduction, Oxford: Oxford University Press 2010 and Vernon, Mark, *How To Be An Agnostic*, Houndmills: Palgrave MacMillan 2011.

order, regardless of, or better put, *especially* in a culturally and religiously diverse society.