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Christian JOPPKE and John TORPEY, *Legal Integration of Islam. A Transatlantic Comparison* (Harvard University Press, 2013)

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THE SITUATION OF MUSLIMS and Islam in European and North American societies has been addressed in innumerable studies. The topic is certainly one that presents many challenges to these societies today, in particular when it comes to their capacity for integrating, in the best sense of the word, new religious minorities into a harmonious social fabric (what the French call *vivre ensemble*). Those authors who do deal with the subject generally do so from the perspective of their own discipline, be they sociologists, demographers, jurists or educationalists, to name but a few. It is much less frequent, however, to come across authors who succeed in weaving into a single analysis several disciplinary perspectives and, if they do so, it is often by putting one discipline at the service of the others.

The originality and the added value of the work under review is that Christian Joppke and John Torpey have succeeded in combining two approaches—that of political science and that of the law, with a focus on the legal-institutional dimension (15)—to the reality of the presence of Islam in Europe and North America today. Such an exercise is far from straightforward, as it relies on two very different types of sources that are only very rarely consulted in conjunction with each other.

The volume focuses on the situation chiefly in two European countries on the one hand (France and Germany), and in the United States and Canada on the other: they hereby update research they had initially undertaken in 2006 for a project proposal titled “State Neutrality and Accommodating Islam in Western Europe and North America.” By means of carefully chosen examples, the authors show how in the last two to three decades the legal-institutional responses to religious diversity have given a true impetus to accommodating a new religion in Europe. Their observation is in sharp contrast with the uneasiness felt by the majority society toward Islam and in particular toward Muslims who claim their rights (either before courts or otherwise). From the majority’s point of view, the social integration of Muslim communities in Europe, in particular, is seen to have failed. The result of this dual perception is that in liberal democracies such as

those under study here, there are two different ways of responding to the demands of Muslims to participate in social life. *First*, that of the judiciary, which although proceeding, it is true, on a case-by-case basis, has made undeniable progress in gradually reinforcing the rights of Muslims. *Secondly*, what the authors call a “retreat from multiculturalism,” driven by a receding optimism as regards the possibility of a successful accommodation of Islam and Muslim immigrants in contemporary Western societies. This places political leaders on the horns of a dilemma: whether to follow a “deep constitutional-legal affirmation” of the right to be religious (that starts from the principle of non-discrimination), or to follow a recalcitrant public opinion that is uneasy with Islam. The first option yields results that offer legal protection to Muslims but that are difficult to translate into policy and sell to the general public. The authors see what they refer to, not without irony, as “muscular liberalism,” borrowing a term from British Prime Minister David Cameron (153), as being ultimately a populist policy of thinly veiled nationalism. Where such a policy is translated into legislative initiatives intended—if only by symbolic acts—to make concessions to a public that is afraid of religion, as was the case in France with the passage of the law prohibiting the full face veil, the authors do not hesitate to speak of a “political backlash against constitutional law” (45) or a “parliamentary backlash against too strident courts” (9).

The authors have resolutely opted to centre their analysis on a few specific cases. The illustrations, each in its own way, all point to the same observation, namely, that while the legal principles in matters of respect for freedom of religion and “nothing less than full equality” (159) would make it possible to achieve a truly inclusive society, this forward movement is impeded by fearful politicians faced with majority societies that have little inclination to embrace Islam in their midst. This is becoming a true problem of integration policies, especially in Europe.

The authors further show that the two sides of the Atlantic cannot easily be compared when it comes to the reality of Islam. Europe has to deal much more with unsolicited migrants, for the most part lower skilled asylum-seekers or those coming in under family reunification schemes, for whom entry into the labour market and participation in the host society is more difficult (“especially when those groups adhere to a religion with which Europe was at odds for hundreds of years,” 143), while the socio-economic profile of Muslim immigrants to North America under a selective immigration system is different, and the group size smaller and more likely to integrate.

The illustrations provided by the authors sound familiar, precisely because they have been widely debated in recent years in the public sphere, notably in France, Germany and (lately also) Italy. The question of the integration of Muslim communities in these countries seems at times to be reduced to that of the wearing of the full face veil (as in France, as well as in Belgium) and of the prohibition of religious symbols in public spaces (in Germany and Italy), if one goes by the media coverage alone. The authors masterfully succeed in this dual reading, which consists, for each case studied, in juxtaposing on the one hand the reasoning in law as regards safeguarding the principles of non-discrimination and religious freedom within the context of a neutral liberal state, and on the other hand a more hard-line reading driven by the stereotypes circulating amongst the wider public based on an image of a menacing Islam, pointing at its “particular uneasiness with differentiation, between religious and political, sacred and secular, individual and group” (149).

After reading the authors’ juxtaposition of these two logics, one easily understands the regret which they express at the tendency in recent years to withdraw the protection initially granted in law, in favour of more populist, majoritarian-biased policies. They refer in this regard to the ECtHR Grand Chamber’s approval in 2011 of the display of the Christian crucifix in Italian public schools (in the *Lautsi* case) as well as to the final vote on the draft law to ban the full veil (*burqa*) passed in the French National Assembly on 13 July 2010 and its approval by the Conseil Constitutionnel in October 2010. In both cases, after the principle of protection under state law of minority claims had initially been confirmed, it was later withdrawn, in the former case by the 2011 decision of the Grand Chamber of the ECtHR, and in the latter by the French legislature after much political horse-trading. The authors are very critical of this tendency, the more so since they see no reason to believe it will not continue and even become the dominant approach. The judiciary would thereby lose its “pivotal importance” (160) in the search for equilibrium between granting minorities their rightful place in liberal societies and the requirement of neutrality on the part of public authorities, in favour of “a trend across Western states to reassert national identities and particularisms” (157). This is of course a problem not only in response to the presence of Muslims in liberal societies in Western Europe, as is evidenced precisely by the *Lautsi* case, which concerned the claim of an atheist naturalized Italian citizen of Finnish origin, who argued that the concept of secularism required the Italian state to be neutral and keep equal distance from all religions.

The format of a review does not allow one to go into greater detail, but what gives the book its particular richness is that the authors also engage in a true dialogue with the works from which they draw inspiration, at times to challenge certain positions and at other times to confirm conclusions. It is true that they have relied on a selection of sources, but this is inevitable and is largely compensated for by the extraordinary clarity of the writing and by the justice done to the authors whom the authors quote. The result is a book that reads very easily, summarising with great clarity debates that are at times highly complex, taking place in different national contexts, and that are still under way today.

Jurists who are familiar with their own reading with the case law analysed in the book will feel vindicated as to the key importance of legal protection, while readers less familiar with legal reasoning will benefit from the clear explications of the pertinence of the cases considered. One may regret that this sort of dialogue is not more frequently undertaken in daily life, but it would be too much to hope that the politicians will be the ones to forge these links.

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