

Democracy, Law and Religious Pluralism in Europe: Secularism and Post-Secularism

Edited by FERRAN REQUEJO AND CAMIL UNGUREANU

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This is a thought-provoking and engaging edited collection of essays, which comprises excellent contributions on timely and important topics within the field of law and religion. The editors should be congratulated on their astute choice of authors, who come from a variety of disciplines and who hold a wide spectrum of views on this key topic of debate. Such plurality of opinion is rightly the aim within contemporary academic collections; it is not always entirely achieved, however, and therefore it is refreshing to see the target so convincingly hit here. This book is an invaluable addition to the current literature available, in the United Kingdom and indeed the European context as a whole.

The introduction by Camil Ungureanu sets the scene and provides an interesting reflection on the possible benefits and abuses of post-secularism. Ungureanu refers to other authors who have recently declared that the predicted disappearance of religion has become increasingly implausible, and immediately points out that 'a new wave of philosophers and social theorists has, in the past decade, questioned the secularist opposition between religion vs. modernity, and faith vs. reason, and looked for a new common ground shared by atheists and faithful alike' (p 1). He highlights the different approaches to this debate included in the current collection. For instance, in Chapter 11 Professor Ferrán Requejo searches for a viable medium to reflect and express the increasing pluralisation of our societies, while various other contributors (such as Lorenzo Zucca) look for an intermediary space between secularism and majoritarianism.

The book is divided into two parts. The first is a more theoretical analysis of the secularism/post-secularism debate in Europe. Although there is only space to mention a sample of the contributions here, that is not to suggest that others are not equally interesting and well researched. Both Cécile Laborde and Cristina Lafont focus on pluralism and religious freedom, while placing a special emphasis on the American Constitution. These two contributions are useful, although some caution is advisable when drawing conclusions from comparisons with other jurisdictions, particularly when there are key differences with the European models being addressed. The editors should be congratulated on according due weight to the historical dimension of Church and State relations and its continuing relevance. Here, the analysis by Prof John Loughlin is worthy of special attention, dealing with both secular and religious conceptions, as well as with historical and contemporary debates. Undoubtedly, this chapter will be useful to many scholars with an interest in history and religion.

The second part, entitled 'From theory to practice: religion and the European Court of Human Rights', is excellent and it will particularly assist researchers, academics and students working within the legal domain.

As always, Javier Martínez-Torrón provides a thorough, competent and illuminating analysis of the case law of the European Court of Human Rights in the field of religion and belief. This contribution identifies the strengths of the Strasbourg case law but also rightly draws the readers' attention to the shortcomings of some decisions, as well as the growing understanding that religion should be confined to the private sphere. Martínez-Torrón is particularly critical of this 'neutrality' on the basis that it is in reality the view of the 'political and social majority, and therefore it is easy for them to impinge on the rights of people belonging to minority groups with distinctive beliefs' (p 138).

Lorenzo Zucca's engaging analysis of *Hodkin* is to be welcomed (that case provides what could be regarded as a 'working' definition of religion and rejects previous judgments, such as *Segerdal*, which were entirely theistic in their understanding of the concept). It must be said that *Hodkin* is a valuable case, although, in my view, it is unlikely to close the debate; despite the unanimous nature of the decision of the Supreme Court, there may well be subsequent attempts to limit (though almost certainly not to expand) this (probably too) generous understanding of religion.

Gamper's chapter on conscientious objection to participating in same-sex marriage is timely. In fact, the debate about whether there is a hierarchy of rights, particularly in relation to the conflict between protection of religious freedom and prohibition of discrimination on the grounds of religion is taking place not only in the United Kingdom but also in other European jurisdictions.

Whether or not the Court of Strasbourg paid too little or too much attention to the doctrine of the margin of appreciation during the *Lautsi* saga is the scope of the interesting contributions of both Marisa Iglesias and Camil Ungureanu. As this case has given rise to massive quantities of literature in the course of the last few years, some might argue that no more was needed. However, in the opinion of this reviewer, the solid discussion here about the margin of appreciation is to be welcomed, particularly in a book with a European remit. It is unquestionable that legitimate differences between the member states belonging to the Council of Europe must be upheld and even encouraged. Yet, were this respect for national cultural diversity to become a basis for diluting or even neutralising what should be a non-negotiable uniformity across our continent in areas such as the prohibition of discrimination on the grounds of religion, the whole system would be in jeopardy.

In his stimulating (and controversial) final remarks, Ferrán Requejo suggests that an updated liberal-democratic secular model should be based on four principles: separation (of religious and state powers), the state's neutrality

(governance), religious freedom and the respect/protection of religious and non-religious minorities. Moreover, Requejo highlights that there are three spheres of action in the political life of a country: private, social and public. He asserts that, in a twenty-first century democracy, religion should not be present in the public (state) sphere. This is clearly at odds with the legal frameworks of most European countries and, in the opinion of this reviewer, further work is required to explain why, as an overarching principle, the presence of religion in the state sphere is incompatible with the foundations of a contemporary democracy. It is an interesting contention but requires further justification if it is to be engaged with appropriately.

To sum up, this is a very interesting volume, containing stimulating contributions which deal with some of the most difficult challenges currently facing Europe in the area of law, religion and pluralism. It is strongly recommended for anyone with an interest in law, history or religion, or indeed other disciplines within the field of humanities.

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The Burqa Affair Across Europe: Between Public and Private Space

Edited by ALESSANDRO FERRARI AND SABRINA PASTORELLI

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This book makes a refreshing and balanced contribution to an area of legal and social debate which all too often gives rise to more heat than light. Although there is a plethora of literature relating both to controversies around the wearing of religious symbols within public spaces and also to state regulation of female Islamic dress, no volume fills the place of this one.

The book concentrates on one particular (but extremely important) aspect of these broader discussions, namely the legal turbulence generated by both litigation and government policies relating to the wearing of the burqa and niqab. It is distinctive because it focuses exclusively on this issue, rather than considering it as part of a broader discussion.¹ Furthermore, much of the existing literature which considers the specific question of female Islamic dress and the law, does

1 As, for example, was the case in E Howard (ed), *Law and the Wearing of Religious Symbols: European bans on the wearing of religious symbols in education* (Abingdon, 2012) and W Durham, R Torfs, D Kirkham and C Scott, *Islam, Europe and Emerging Legal Issues* (Farnham, 2013).