

of expression, as enshrined in Article 10 ECHR, namely the concept of hate speech and whether and to what extent the latter is protected by the Convention. Weber draws attention to two main problematic issues pertaining to the protection of hate speech: firstly, the Court must often negotiate conflicting and concurrent interests and freedoms, thus effectively having to restrict, for instance, one's person's freedom of expression in order to ensure the protection of another's freedom of thought, conscience and religion; secondly, 'hate speech' has no universally recognised definition. In addressing these two issues, the *Manuel's* aim is to identify definitional criteria to establish what constitutes 'hate speech', which Weber argues has the function to determine which type of hate speech falls within the ambit of the Convention and its safeguarding mantle, and which falls outside and is therefore devoid of protection. The first half of the *Manuel* presents an overview of the international agreements (eg ECHR, Universal Declaration of Human Rights) which may help in extracting some elements of definition. However, it is the second and most substantial part of the *Manuel* which provides the main discussion by examining the principles developed by the Court's jurisprudence in resolving cases where the enjoyment of Article 10 conflicts with another Convention right. In particular, Weber points to the Court's two choices: either to negate freedom of expression to the benefit of another freedom, or to conciliate the two freedoms. The discussion is often contextualised with the use of *cas pratiques* (case studies) which explore the practical application of the debate through factual examples. Although the *Manuel* offers a welcome addition to the literature on 'hate speech', an overall conclusion of the various circumstances within which 'hate speech' is to be envisaged and managed would have been welcomed. As it stands, the *Manuel* is not a pragmatic and clear guidebook on the concept of 'hate speech', but rather an overview of the relevant legislative texts and case law pertaining to the subject matter, from which the reader should draw their own conclusions.

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Muslims in the West after 9/11: Religion, Politics and Law

EDITED BY JOCELYNE CESARI

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Marketed as 'the first systematic attempt to study the situation of European and American Muslims after 9/11' (p i) this slender volume of ten essays, two of

which are contributed by the editor Jocelyne Cesari, sets itself a very ambitious target. Whilst much of the material contained in the collection remains of interest, this broad canvas leaves little room for detailed exposition upon particular examples or novel analysis. Moreover, in spite of the subtitle, none of the contributors to the collection is an academic lawyer. This shortcoming has a direct impact upon the quality of the comparative legal analysis which forms an important element of many of these essays.

The collection is divided into three sections, with the two chapters which make up the first section seeking to provide an overview of the position of Muslims throughout Europe and the United States of America respectively. These short chapters set the scene for the remainder of the book, giving them some value for general readers. Nonetheless, much more could be made of the material contained in these chapters. Cesari's chapter on Islam in Europe is based upon a series of focus groups conducted in Paris, London, Berlin and Amsterdam between 2007 and 2009 (p 10). However, despite the lack of empirical research into the causes of the alienation which Cesari identifies amongst groups of Muslims across Europe, very little of this chapter (pp 17–19) is devoted to exploring the opinions of the participants in these groups. Such coverage compares unfavourably to the comprehensive, if now dated, Joseph Rowntree report on Muslim alienation in the United Kingdom.¹ The second chapter in this section, Jane Smith's overview of Islam in America, is similarly undermined by a lack of detail. Reviewing Louis Farrakhan's 'charismatic leadership' of the Nation of Islam (p 34), for example, Smith does not delve into episodes such as Farrakhan's exclusion from the United Kingdom on the basis that his presence in the country would undermine relations between the Muslim and Jewish communities.²

These limitations continue to affect some of the material presented in the substantive sections of the collection. Mahmood Monshipouri's chapter attempts to analyse the impact of counter-terrorism measures on Muslim communities across Europe and the United States. As a result, his analysis of the United Kingdom's Terrorism Act 2006 is limited to the acknowledgement that this legislation 'expanded the discretionary powers granted to both the Home Office and the police' (p 54). This contrasts markedly with Javaid Rehman's thorough analysis of the alienating potential of these counter-terrorism measures in the context of a legal system in England and Wales which is supposedly rooted in principles of multiculturalism.³

1 A Blick, T Choudhury and S Weir, *The Rules of the Game* (London, 2006).

2 *R (Farrakhan) v Secretary of State for the Home Department* [2002] EWCA Civ 606.

3 J Rehman, 'Islam, "war on terror" and the future of Muslim minorities in the United Kingdom: dilemmas of multiculturalism in the aftermath of the London bombings', (2007) 29 HRQ 831.

Dirk Nabers and Robert Patman locate themselves in a rich field of scholarship⁴ in their chapter which focuses on the binary rhetoric of ‘good-versus-evil’ (p 67) employed by George W Bush’s administration to justify its counter-terrorism policies after 9/11. This narrower focus produces an interesting study of the stultifying impact of this rhetoric upon political debate in the United States, with dissenting voices hamstrung for long periods by accusations that questioning administration policy was tantamount to disloyalty (p 82). This chapter is buttressed by Michael Desch’s examination of the impulse to spread American values as an overarching theme in United States foreign policy (p 89). Whilst this facet of United States foreign policy has again been addressed by far more comprehensive studies in recent years,⁵ Desch’s chapter does make a valuable contribution to the debate, although one which appears slightly out of place in a collection focused on Muslims *in* the West.

In its third section this collection begins to address issues central to its titular subject matter in depth. Frank Peter’s chapter, however, is worth the wait. He builds a convincing critique of the German government’s problematisation of German Muslim communities since 2001 (122)p, in particular flagging up the difficulty faced by the federal government in its efforts to choose representatives with whom to engage (p 131). However, Jocelyne Cesari’s second substantive chapter, examining the approach of jurisdictions across Europe to Muslim family law and public manifestations of religion again suffers due to its generality. Her conclusion generalises that all of Europe has adopted a single approach to minority groups (p 170), despite her analysis detailing profound differences of approach between states. Louise Cainkar’s essay builds upon the chapter by Nabers and Patman by examining the impact upon American Muslims of the United States government’s rhetoric in the aftermath of the 9/11 attacks (p 181). Her study develops into an interesting analysis of civic activism by Muslim American groups to counteract the perceptions created by the Bush Administration’s approach to counter-terrorism (p 190). Thereafter, in an essay which deserves to be widely read, Yasemin Shooman and Riem Spielhaus analyse the development of anti-Muslim stereotypes in public discourse in Germany. In contrast to commentators who deny that the diverse Muslim communities of Europe and the United States have actually coalesced into a single ‘alienated’ group as a result of shifting attitudes towards multiculturalism since 9/11,⁶ Shooman and Spielhaus identify a concerted effort by populist right-wing groups across Europe to portray Muslims as being part of a homogenous group (p 205). Finally, a short chapter by Farhad Khosrokhavar

4 See I Ward, *Law, Text, Terror* (Cambridge, 2009).

5 See T Farer, *Confronting Global Terrorism and American Neo-Conservatism: A Framework for a Liberal Grand Strategy* (Oxford, 2008).

6 See S Greer, ‘Human rights and the struggle against terrorism in the United Kingdom’, [2008] EHRLR 163.

traces the development of, and response to, radical Islam in France (p 230) and the United Kingdom (p 233).

Presented together, these essays do provide a useful overview of the widespread impact of the 'war on terror' in a range of countries. The collection, however, illustrates the impossibility of predicting future flashpoints with regard to the treatment of Muslim minorities in Western democracies. Despite the wide geographical scope of the essays, the collection includes only one passing reference to the position of Muslims in Switzerland (p 204). Whilst this may be considered indicative of the limited attention given to this country prior to the referendum result in November 2009 in favour of banning the construction of minarets,⁷ it also highlights the need to build upon the platform provided by this collection.

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The Religious Left and Church-State Relations

STEPHEN H SHIFFRIN

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For a mildly left-of-centre English Quaker the very title of this book presents a challenge. 'The Religious Left'? In the US? And exactly what would that be? From where I sit, middle-of-the road Democrats seem to be well to the right of Tony Blair, while right-wing Republicans make the likes of Margaret Thatcher, Keith Joseph and Nicholas Ridley (the politician, not the Oxford martyr) look like woolly liberals. Jimmy Carter and Barack Obama aside, the idea that there might be very much in America resembling the European socio-political liberal left is very hard for some of us on this side of the Atlantic to grasp.

Part of the problem is that many American Christians whom a European might conceivably recognise as coming from the political left-of-centre, such as Daniel and Philip Berrigan, Thomas Merton, John Howard Yoder and (pre-eminently) Martin Luther King, have been members of faith-communities that most theological liberals would regard as religiously conservative. Shiffirin acknowledges this confusion at the outset. By 'religious left' he means those citizens who arrive at liberal political conclusions in accordance with religious

7 See I Traynor, 'Swiss vote to ban construction of minarets on mosques', *The Guardian*, 30 November 2009.