1. Introduction: freedom of religion and belief – the contemporary context

Peter Cumper and Tom Lewis

Attempting to assess or measure the extent to which the disparate populations of Europe are currently committed to religious or equivalent forms of belief is a challenging task. It is one that is compounded by the fact that today, as a senior British judge has observed, ‘we live in a society, which is at one and the same time becoming both increasingly secular but also increasingly diverse in religious affiliation’\(^1\) – a comment that seems applicable not just to the UK, but to many other parts of the continent.\(^2\) Given the long-standing co-existence of strong faith and secular traditions in Europe, and the arrival of a multitude of other religious and equivalent philosophical beliefs more recently through immigration, it is perhaps hardly surprising that one commentator has described Europe’s current relationship with religion as being a ‘complicated matter’.\(^3\) Thus, it remains unclear whether contemporary Europe can be best described as a ‘Christian’, ‘secular’, or even a ‘post-secular’ continent.

To the extent that it is possible to estimate the religious ‘temperature’ of such a vast and religiously diverse area, there is plenty of evidence to suggest that, in parts of Europe, organised religion is in retreat. For a start, unlike the United States where church attendance has traditionally (by Western standards) been high,\(^4\) in recent decades mainstream churches in many European states have not only experienced a significant decline in

---

\(^1\) Munby LJ in Singh v Entry Clearance Officer New Delhi [2004] EWCA Civ 1075, [62].


\(^3\) Andrew M Greeley, Religion in Europe at the End of the Second Millennium: A Sociological Profile (Transaction, 2004) xii.

\(^4\) See for example Howard M Bahr and Bruce A Chadwick, ‘Religion and family in Middletown, USA’ (1985) 47(2) Journal of Marriage and Family, 407 and C Kirk Hadaway, Penny Long Marler and Mark Chaves, ‘What the polls don’t
Religion, rights and secular society

membership,\(^5\) but have even struggled to recruit new priests or religious leaders.\(^6\) Moreover, the growing influence of non-religious precepts in European public life is highlighted by the well-publicised concerns of some prominent religious leaders that Christianity is increasingly under threat from secular values.\(^7\) Additional factors that have detrimentally affected the influence of religion in Europe in recent years include: the rise of militant Islam and other forms of religious extremism; high-profile terrorist acts in the name of a religion (for example ‘9/11’ and the attacks on Madrid (2004) and London (2005)); child-sex scandals involving priests and claims of church cover-ups; an apparent conflict between science and the beliefs of some faith groups (for example the evolution and creationism debate); and even the publication of an unprecedented number of best-selling books on the perceived irrationality of religious belief.\(^8\) Thus, at first sight, it might appear that Europe is today a decidedly ‘secular’ continent. However, on closer inspection, this is evidently not the case, and rumours of the demise of religion in Europe have, to paraphrase Mark Twain, been ‘greatly exaggerated’.

In the last decade or so there has been a global resurgence of religion in international affairs, which has prompted claims of a ‘desecularisation of the world’.\(^9\) By the same token, a number of factors have contributed to a re-emergence of religion in the public sphere across much of Europe. These factors include: the revival of religious belief in some European

---


\(^7\) See for example the comments of the former Archbishop of Canterbury, Lord Carey, who has accused the UK judiciary of having a ‘disparaging attitude to the Christian faith and its values’ and of having a ‘clear animus’ towards Christian beliefs: *McFarlane v Relate Avon Limited* [2010] EWCA Civ B1 at [17]; [2010] I.C.R. 507 (EAT).


Introduction

states;\textsuperscript{10} a growth in ‘alternative’ forms of spirituality;\textsuperscript{11} the proliferation of new religious movements;\textsuperscript{12} the influence of religion in domestic political discourse;\textsuperscript{13} the centrality of religion in the identity of many European minority faith communities;\textsuperscript{14} and a rejection by some faith groups (particularly Muslims) of rigid public/private classifications in relation to the manifestation of religious belief.\textsuperscript{15} These developments do not merely cast doubt on the view that religion in Europe is in terminal decline, but have even prompted some commentators to claim that ‘God is back’.\textsuperscript{16} The increasing influence of faith in European public life is also demonstrated by the fact that some of the continent’s most influential scholars are now engaging in a constructive dialogue with religious leaders in a way that would have been almost unimaginable in an earlier age.\textsuperscript{17} Accordingly, given what Karen Armstrong has termed a ‘backlash against secularism’ in the West,\textsuperscript{18} few now dispute the potential impact of religion in the public sphere,\textsuperscript{19} and even

\begin{itemize}
\item \textsuperscript{11} See for example Cole Moreton, \textit{Is God Still an Englishman?: How We Lost Our Faith (But Found New Soul)} (Little, Brown, 2010) and Grace Davie, \textit{Religion in Britain Since 1945: Believing without Belonging (Making Contemporary Britain)} (Wiley Blackwell, 1994).
\item \textsuperscript{15} See for example David Harte, ‘Defining the legal boundaries of orthodoxy for public and private religion in England’ in R O’Dair and A Lewis (eds) \textit{Law and Religion} (Oxford University Press, 2001) 471.
\item \textsuperscript{16} John Micklethwait and Adrian Wooldridge, \textit{God is Back: How the Global Rise of Faith is Changing the World} (Penguin, 2010).
\item \textsuperscript{17} See for example Joseph Ratzinger and Jürgen Habermas, \textit{The Dialectics of Secularization: On Reason and Religion} (Ignatius Press, 2007) and Jürgen Habermas, \textit{An Awareness of What is Missing: Faith and Reason in a Post-secular Age} (Polity Press, 2010).
\item \textsuperscript{19} Judith Butler, Jürgen Habermas, Charles Taylor and Cornel West, \textit{The Power of Religion in the Public Sphere} (Columbia University Press, 2011).
\end{itemize}
scholars that a decade ago referred to God as being ‘dead’ in the West now reflect changed perceptions by describing secularism as an ‘unfashionable theory’. Of course, one must acknowledge that secularism, in its many different forms, shows no sign of vacating the public stage in contemporary Europe, but it is equally apposite to note that once commonly held assumptions that religion would in time become a spent force in European public life have proven to be ill-founded.

THE BOOK’S STRUCTURE AND THEMES

It is within the context of nations having to balance religious and secular values that this book examines a number of the ways in which religion and equivalent belief are currently protected in Europe. The structure of the book is as follows. Its initial focus is on western Europe. It starts by examining three nations (the Netherlands, the UK and Germany) that have been (at least in part) shaped by the Protestant tradition, before turning to four countries (Ireland, Spain, Italy and France), that have had historically close ties (at least in terms of the religious affiliation of their citizens) with the Roman Catholic Church. We then move eastwards and consider freedom of religious belief in a number of nations that have faced challenges of the kind that have not been experienced, in recent decades, by their western European counterparts. We begin with the Republic of Cyprus, the southern part of that divided island, before proceeding to focus on a number of states that, in the last half-century, suffered under the yoke of Communism. In this regard we examine Hungary, followed by a brief history of religious freedom in Slovakia, the Czech Republic and Poland, before finally considering the relevant position in Bosnia, Kosova and the Former Yugoslav Republic of Macedonia. In the last section of the book, our attention turns to three thematic chapters that consider, respectively, the changing patterns of religion and belief in Europe; the status of Islam and Europe’s Muslims; and finally, the protection of new religious movements and other minority faith groups in Europe.

Whilst a range of very different constitutional models and arrangements can be found today in Europe, a number of common themes pervade many of the chapters in this book. The first of these is that the very existence

---

20 See for example Steve Bruce, Secularization: In Defence of an Unfashionable Theory (Oxford University Press, 2011) and Steve Bruce, God is Dead: Secularism in the West (Blackwell, 2002).

21 See for example Craig Calhoun, Mark Juergensmeyer and Jonathan Van Antwerpen (eds) Rethinking Secularism (Oxford University Press, 2011).
of some European states can be traced back to violent conflicts that once
had their origins in religious enmity. From the Great Schism between the
Eastern Orthodox and Roman Catholic Churches in 1054 to the Protestant
Reformation in the sixteenth century, events with a religious dimension
have helped to shape the spiritual and political maps of Europe. Secondly,
a distinctive religious identity has often been regarded as a key marker of
national affiliation in Europe, as witnessed by the doctrine of *cuius regio
eius religio* (whose region, his religion) established at the Peace of Augsburg
in 1555, or more recent constitutional arrangements under which certain
religions are afforded a unique and privileged status. A third common
theme is that whilst religion itself has been a formative element in the crea-
tion of the national identities of European states, the struggles between religious groups have often been the catalyst for constitutional ‘compromises’
(often tortuously reached) ensuring de facto (though not always de jure)
state neutrality on matters of faith. Fourthly, there seems little doubt that
Christianity has had a considerable impact on European public life, as illus-
trated by the fact that Europe’s working week and public holidays tend to
be reflective of the Christian calendar. And finally, as the book makes clear,
as the role and status of religious belief across Europe is that there exists a kaleidoscope of diversity on the status of religion in
European societies, and the methods/means by which religious freedom
(for both individuals and groups) can be most appropriately secured. So
deply engrained is this view that the European Court of Human Rights
has consistently used it to justify the granting of a wide margin of apprecia-
tion to states in cases involving religion, belief and secular values.22

THE RELATIONSHIP BETWEEN RELIGIOUS AND SECULAR VALUES

At the heart of the relationship between religious and secular values in
contemporary Europe lies a paradox. As noted above, the values of
European liberal democracies in the twenty-first century – de facto state
neutrality, and the protection of human rights, tolerance, ‘liberty, equality, fraternity’ – often lead to religious and social pluralism, as individuals
and groups exercise their liberty and pursue their own paths in matters of

---

22 See for example *Şahin v Turkey* (App no 44774/98) (10 November 2005)
(GC) (2007) 44 EHRR 5 at [109]; *Otto-Preminger-Institut v Austria* (App no
13470/87) (20 September 1994) (1994) 19 EHRR 34 at [50]; and *Murphy v Ireland*
Religion, rights and secular society

faith. Yet, ironically, it appears that these paths are often at odds with the secular liberal values that have facilitated their very existence. This is most obviously the case in areas ranging from discrimination on the grounds of one’s gender or sexuality to curbs on freedom of expression and blasphemy laws. This aforementioned paradox is also present in the secular tenet that a counterpart of state neutrality is that religion should be an essentially private matter. Of course, in many respects this tenet can protect freedom of religion, since it ensures that there is an equal footing between all different faiths – but it may also conflict with various elements of religious belief, such as where a ‘believer’ maintains that a particular conviction requires him/her, say, to wear a form of religious dress or display a certain religious symbol in public. As the following chapters make clear, this paradox has led to a number of related tensions in the nations under consideration.

The first such tension often occurs when religious groups are relatively new to a particular state, or their members were not involved in the crucial constitutional ‘compromises’ that were reached many years earlier between the dominant religion and the state’s organs of government. This is most obviously the case in relation to immigrant minority faith communities (for example Muslims, Hindus, Sikhs, Buddhists) or groups that are often regarded as being new religious movements (for example Jehovah’s Witnesses, Mormons, Scientologists). Many of the religious controversies of the last few decades have revolved, in different ways, around this tension, and range from the publication of allegedly blasphemous material (for example The Satanic Verses and the ‘Danish cartoons’ furores in 1988 and 2005 respectively) to the emotive Islamic ‘headscarf’ debates throughout much of Europe. A second related tension occurs when there is a conflict between the tenets of contemporary secular thought and long-standing religious precepts. A case in point is where national legislation outlaws discrimination on the grounds of sexuality or sexual orientation in a way that is contrary to the way in which some conservative religious organisations interpret their sacred texts. And a final tension that exists, particularly in the new democracies that have emerged in recent decades in central and eastern Europe, is where historically powerful churches seek to retain the residues of their hegemony, or further, wish to reassert it in areas such as education or church building, following the demise of repressive regimes. The resulting picture is that some citizens are left feeling isolated and marginalised, while others regret having lost the ‘certainties’ of previous generations. Thus, mindful of such tensions, this book will seek, at least in part, to explore some of the problems, challenges and opportunities facing law and policy makers in having to balance a myriad of Christian, secular and multi-faith values in a number of European states.
Introduction

A SUMMARY OF THE CHAPTERS

In the first chapter on the Netherlands, Marjolein van den Brink and Titia Loenen explain how the Netherlands, whilst being a ‘state that was basically founded on Protestantism’, developed methods to avoid religious conflict. These started with the abolition of the ‘preferred’ status of the Protestant Reformed Church and thereafter the gradual severing of ties between church and state, which culminated in the 1983 Constitution that removed all religious provisions, other than those guaranteeing freedom of religion. Van den Brink and Loenen demonstrate how the modern Netherlands has adopted an approach of ‘inclusive neutrality’ in which the state itself is secular (in that it maintains an impartial stance towards many religions) but adopts a ‘benevolent and accommodating’ stance towards religion, and is ‘not intent on banning religion from the public sphere’. The authors also discuss how the Dutch courts have tended to adopt a balanced approach in relation to issues such as the wearing of Islamic dress by public employees, the granting of religion-based exemptions for officials officiating at gay marriages, and the case of a religious political party that cited faith as the basis for its exclusion of women from full membership. However, they conclude that the country is now at a ‘crossroads’, and that there are signs that it may adopt a more exclusivist approach, especially with regard to Islam, in the future.

The United Kingdom (UK) experiences many challenges similar to those faced by the Netherlands, as Peter Edge explains. The constitutional structure of the UK is ‘distinctive, although not quite unique’ in that there is no single, codified, constitutional instrument that affords protection to freedom of religion or equivalent belief. The UK is also in an unusual position in that, whilst it is an ‘assertively secular state’, it is also the home of an Established Church (the Church of England). In considering the consequences of Establishment, Edge observes that the monarch is the Supreme Governor of the Church of England, and that 26 Church of England Bishops (the Lords Spiritual) still retain seats in the House of Lords, the second chamber of the UK’s Parliament. This formal legal position, however, belies the fact that over the centuries the UK has become increasingly tolerant of religious difference, at least in practice. In particular, the Human Rights Act 1998 has incorporated the bulk of the European Convention on Human Rights (ECHR) 1950 into UK law, and these rights have been supplemented by more recently enacted equalities legislation, outlawing discrimination on a range of grounds, including religion and belief. Notwithstanding some recent controversies in regard to discrimination on grounds of sexual orientation and religious freedom, the UK model is today synonymous with a ‘confident assertion of state values’, and
a modern secular constitutional order, despite traditional constitutional arrangements that are ‘anything but secular’.

In Germany, according to Gerhard Robbers, the relationship between law and religion has been strongly influenced by the ‘complete moral and legal breakdown under National Socialism’. Other relevant factors in this regard include the bloody sixteenth-century religious wars between Catholics and Protestants, and, more recently, the traumatic division of Germany between East and West that followed the Second World War and lasted until 1990. Today the German Constitution begins with an *invocatio dei* – not a reference to a Christian God (which would have been inconceivable after the Holocaust) but rather a nod in the direction of transcendence and a reminder that there ‘is more and other than the state and its constitution, something that goes beyond what is made by human kind’. Robbers suggests that the German position is not one of ‘secularism’, at least in the *laicist* sense of implying hostility towards religion. Instead, the constitutional position is one of ‘neutrality’ in that the state does not base its legitimacy on religious assumptions yet nevertheless has a ‘responsibility to make religious life possible’. Key constitutional principles, in addition to neutrality, include tolerance, parity, pluralism and an ‘openness to religion’. According to Robbers, Germany’s difficult recent past has ‘deeply affected’ the constitutional order, and has allowed for the mitigation of many of the current tensions facing the nation, especially in relation to how it responds to the religious practices of its immigrant communities.

The Republic of Ireland, which is next examined, is unlike many of its ‘northern’ European neighbours in that it is a country that has traditionally been (and arguably still continues to be) significantly influenced by Roman Catholicism. In his chapter on Ireland, Eoin Daly explains how the relevant Irish constitutional arrangements are associated with two competing narratives. Liberal secular-republican values have to be balanced against a ‘romantic-Gaelic nationalism’ that emphasises a ‘shared religious identity’ as one of the ‘anchoring points of national identity’. Daly suggests that the ‘distinctiveness of the role of religion in Ireland’s constitutional order lies primarily in the oscillation between the[se] competing narratives’. This tension is evident in several areas that include the 1937 Constitution itself (which ‘embraces a specifically religious dimension’ in its preamble); church–state relations in regard to Ireland’s denominational (Roman Catholic) schools; and the difficult question of balancing religious freedom and the principle of non-discrimination. Whilst Daly observes that the religious ethos of the broader constitutional order has dissipated in recent decades, along with a weakening of the grasp of religion on the public sphere, the constitutional provisions addressing religion still remain ‘poised
between a liberal requirement of state neutrality ... and a recognition of the centrality of religion to national identity’. Spain, like Ireland, is a nation in which the Catholic Church has played a very important role in shaping national identity. Traditionally, as Eugenia Relaño Pastor points out, ‘to be a Spaniard and to be a Catholic were understood as being equivalent – two sides of a single national identity’, which gives Catholicism a ‘fundamental role in the national consciousness’. For much of the twentieth century Spain alternated between two extremes: on one hand, under the Second Republic of 1931–6, there was an anti-clerical reaction to the centuries of Catholic domination at the heart of Spain’s body politic; and, on the other, under General Franco, a confessional state existed that had strong links to the Roman Catholic Church. Pastor explains how the 1978 Constitution, together with the Organic Law on Religious Freedom (1980), improved the position greatly by proclaiming that Spain had no official religion, which helped to enshrine religious liberty, and thereby establish a framework for religious pluralism and tolerance. However, she maintains that the current system is far from perfect when it comes to protecting the religious freedom of minority faiths – and that the present arrangements need ‘fine-tuning’, especially because of the continued privileged position of the Catholic church within the state, as well as the requirement for minority religions to be granted official recognition. What is needed, argues Pastor, is the creation of a ‘third way’ that is sensitive to ‘the public promotion of the greatest level of diversity compatible with harmonious coexistence’, and she is hopeful that this may be provided by recently proposed legal reforms.

In Italy, as in Spain, the national sense of identity or self-conception has historically been inextricably linked to Roman Catholicism. However, as Marco Ventura explains, unlike some other European nations (for example Spain) this phenomenon has strongly re-emerged in recent years. In tracing the influence of Catholicism and laicité in Italy, Ventura points out that the Constitutional Court stated in 1989 that laicité was the ‘supreme constitutional principle’, and in 1997 it was said that this principle implied ‘the equidistance and the impartiality of the law with regard to all religious denominations’. However, factors from the early 1990s that led to a retreat of laicité and the growth of what Ventura terms ‘Christian secular Italy’ include the effects of ‘rapid and massive immigration’; the impact of Italian bishops becoming more active in the public sphere in promoting the role of Italy as a ‘bulwark against the spreading in Europe of social secularization and political and legal secularism’; and the influence of Silvio Berlusconi who, eager to please the Catholic church, objected to several liberalising measures in the fields of equality and family law. Ventura also comments on the important case of Lautsi v Italy, in which the Grand Chamber of
the European Court of Human Rights in 2011 held that the requirement for the crucifix to be displayed in the classrooms of Italian schools does not violate the ECHR. Ventura concludes that, against the background of a heavily secularised and increasingly multi-religious Italian society, Italy is indisputably a stato laico, but acknowledges that the exact meaning of laicità is highly contested.

Just as the debate on the role of faith in public life in Italy has been associated in recent years with a religious symbol (the crucifix), so too has the debate in France centred upon a religious symbol, though in the French case the emphasis has been on symbolism of a different kind — religious dress. In her chapter on France Sylvie Bacquet explains how laïcité has become the very ‘cornerstone of French republicanism’, emerging ‘as a reaction to the church at a time when France was overwhelmingly Catholic’. A central trope of this republicanism — which goes back to the 1789 revolution and the Enlightenment, and crystallised in the 1905 settlement that separates church and state — is a ‘universalist’ view that ‘purports to establish French identity, and requires that the individual transcends any cultural, social or religious belonging in order to achieve individual autonomy . . .’. Bacquet explains how the immigration of Muslims from France’s former colonies in the last half-century has posed a serious challenge to the French conception of laïcité, not least because the ‘goal of creating a universal community of citizens’ sharing a single culture ‘sits uneasily with the diverse French social reality’. Bacquet also traces the debates over the legal bans on headscarves and burqas, and concludes that if the condition of being seen as a French citizen is to ‘detach oneself from any religious and cultural background’, then there is a risk that this ‘may lead to ignorance and segregation rather than integration’.

Notions of citizenship and religion are also considered by Achilles Emilianides in the context of Cyprus, which has been divided on religious lines since the Turkish invasion of the north of the island in 1974. In his chapter, Emilianides gives an account of the majority Orthodox Christian south, in which religious organisations and individual freedom of religion and belief are afforded strong constitutional protection, notwithstanding the fact that the overwhelming majority of people there belong to the Autocephalous Cypriot Orthodox church. What is more, the five constitutionally recognised religious groupings enjoy considerable autonomy with regard to their internal affairs and administration of property. As Emilianides points out, this autonomy has its roots in Ottoman law that preceded Cypriot independence. Emilianides characterises the model prevailing in Cyprus as essentially ‘pluralistic’, with the state recognising and embracing the ‘public dimension to religion, while at the same time attempting cooperation with all religions’. However, tensions nevertheless
arise, since the ‘lofty constitutional declarations about the intended equal standing of all religions before the law’ often do not accord with ‘social reality’, as illustrated by the fact that the ‘Archbishop’s standing, as the leader of the Orthodox Church . . . rivals, in stature and importance, the President of the Republic’ – a position with which other faiths are not able to compete. These tensions have arisen in areas such as the provision of education, the allocation of public space for worship and the funding of projects by the state more generally. As Emilianides concludes, ‘it is only by putting the legal principles into actual practice and by taking into account the social realities in a never-ending quest for reform, that the Cypriot legal system might live up to its characterisation as “pluralistic”’.

We now turn to a number of countries in central and eastern Europe that, during the last half-century, have been transformed (to varying degrees) from avowedly Communist states to emerging democracies, in which religious identities been permitted to re-emerge within the parameters of new constitutional settlements. A nation in point is Hungary, which is examined by Renata Uitz. In her chapter Uitz suggests that Hungary has avoided some of the causes of tension currently present in other European states because it has not been ‘a primary target for immigration’, and ‘still does not have a very visible or sizeable Muslim community’. In reviewing Hungary’s history of religious freedom Uitz observes that, since the Reformation, it has swung on a ‘pendulum’, alternating between tolerant and restrictive regimes – for example, ranging from a ‘wave of religious toleration’ in the early seventeenth century to an ‘aggressive Counter-Reformation’ late in that century. A similar swing was also evident in the second half of the twentieth century. Curbs on religious freedom under Communism were replaced by the enactment of the (post-Soviet) democratic Hungarian constitution, and with a new Act guaranteeing freedom of conscience and religion (1990), a permissive system for the registration of churches was established that allowed ‘for unprecedented religious diversity and opportunities for new faith-based initiatives’. Very recently, however, the pendulum has swung back with the new constitution of 2011. This, Uitz observes, reads in parts like an ‘ode to Christianity’, in that it explicitly refers to the ‘role of Christianity in the preservation of nationhood’. Furthermore, in 2011, following accusations that some small religious organisations were nothing more than ‘business sects’ used for money-laundering purposes, the liberal 1990 regime on the registration of religious denominations has been tightened up, with the result that Uitz describes it as ‘highly problematic from a human rights perspective’. In her conclusion Uitz expresses the hope that the pendulum will swing back, as has been the case before in Hungarian history.

In the next chapter Michaela Moravčíková sketches the history of
religious freedom in three countries that also suffered under the yoke of totalitarianism for much of the twentieth century: Slovakia, the Czech Republic and Poland. She observes that, whilst all three nations continue to bear the legacy of their post-war Communist past, there are significant differences between these states – not least in the religious affiliations of their populations – with Poland and Slovakia being considered to be Roman Catholic, while the Czech Republic (which was conjoined with Slovakia as a single state until 1993) is now generally regarded ‘as being one of Europe’s most atheistic countries’. Moravčíková also points out that there are striking differences in relation to the constitutional status of religion in the respective states. For example, the preamble to Poland’s constitution of 1997 contains both an invocatio dei and an acknowledgement that it is a ‘culture rooted in the Christian heritage of the nation and in universal human values’, whilst the preamble to the 1992 constitution of the Slovak Republic is more muted, in that it refers to the ‘spiritual heritage’ of Slovakia. In contrast, the preamble to the 1993 Czech constitution refers only to secular values such as human dignity, equality, democracy and respect for human rights. In spite of these differences of emphasis Moravčíková comments that important provisions guarantee freedom of religion and belief in the constitutions of Slovakia, the Czech Republic and Poland.

In the chapter that follows Julie Mertus focuses on Bosnia, Kosova and the Former Yugoslav Republic of Macedonia – parts of Europe in which religious, cultural and ethnic differences led to vicious and bloody conflicts a mere two decades ago. Mertus explains that during the Balkan war ‘religion played a role in demarcating the enemy’, and consequently the creation of democratic states respecting religious freedom has presented an ‘incredible challenge’. In her chapter she chooses to focus, because of their ‘illustrative nature’, on three of the states that were parties to the conflict in the former Yugoslavia: Bosnia-Herzegovina (‘Bosnia’), Kosova and the Former Yugoslav Republic of Macedonia (‘Macedonia’). Since the breakup of Yugoslavia, the experience of each of these states, with regard to religious freedom, has been very different. In Bosnia, the most ethnically and religiously diverse of these states, there is a conflation of religion and national identity: ‘to be Serb is to be Orthodox; to be Bosniak is to be Muslim; and to be Croat is to be Catholic’. Since peace is dependent on harmonious relations between these groups ‘Bosnia has made religious freedom a central component of its new society’, and the resulting constitutional protection certainly ‘looks good on paper’. However, according to Mertus, the reality is that the ‘degree to which one can enjoy religious freedom in Bosnia very much depends on whether one is of an ethno/religious minority in a particular region’ – with ‘police escorts often being the difference between life and death for ethno/religious minorities’. 
Kosova, by contrast, is the least diverse of the states and, among Albanians in Kosova, ‘religion has played a far less important role in forming national identity’: ‘the religion of Albanians is Albanianism’. However, Kosova is firmly divided on nationalist rather than religious lines, between the large Albanian majority and a small Serb minority – so much so that de facto parallel institutions and legal systems have arisen. Even though human rights are prominent in the nation’s constitution, Mertus notes that the ‘mechanisms for ensuring the implementation of those rights are not yet in place’. Finally Macedonia, with its overwhelmingly Macedonian Orthodox population, was not plagued by the conflicts of the rest of the Balkans, perhaps because the main struggle, dating back hundreds of years, was for Macedonia to establish its own identity – in particular that of the Macedonian Orthodox church against the Serbian Orthodox church. In Macedonia the debate over Orthodoxy ‘does not pit the state against a minority group (as in Kosova), but rather it creates a bilateral struggle of state religion (Macedonian Orthodox) against its perennial enemy and powerful neighbour, the Serbian Orthodox church’.

The final three chapters of the book focus on some ‘trans-national’ themes that are of relevance to Europe today as a whole. In the first of these Grace Davie provides an overview of the position of faith in Europe. In particular, she examines one of the key paradoxes that emerge from the chapters in this book: that ‘on one hand [there] are the relatively high levels of secularity in most if not all of Europe, but on the other is the marked resurgence of religion in public debate’. Davie identifies and discusses six factors that help us understand this paradox and, with it, the place of religion in modern Europe. These are the role of historic churches in shaping European culture; an awareness that these churches still play a role at ‘particular moments’ in the lives of modern Europeans; a shift in the ‘churchgoing constituencies of the continent which operate increasingly as a model of choice rather than . . . obligation or duty’; the arrival in Europe of groups of people from different parts of the world who have ‘very different religious aspirations from those in host societies’, especially in regard to the place of religion in the public sphere; the reactions of Europe’s ‘secular elites’ to the increasing salience of religion in public and private life; and finally, a growing realisation that, in patterns of religious life, modern Europe is perhaps the exception when compared to the rest of the world. A critical issue here is the fact that Europeans are ‘losing their knowledge of religion’ at the very time that they most need it. As a result of this lack of knowledge, Davie observes, the debates surrounding religion are often both ‘ill-informed and ill-mannered’, as Europeans return to asking questions about issues that they had previously regarded as being closed.
The fact that these debates over the role of faith and the rights of believers are increasingly taking place in Europe is at least partly due to two interconnected and overlapping factors. First, with immigration, numerically significant Muslim populations have arrived that were not involved in the constitutional settlements of yesteryear, which expected faith to retreat into the private sphere. And secondly, religious minorities have emerged that differ from those long-established churches that were the key actors in the shaping of European history. It is these areas that form the subject matter of the final two chapters – by Jørgen Nielsen on Islam, and by James T Richardson and Valerie Lykes on minority religions.

In relation to high-profile controversies or well-publicised events concerning Islam, Jørgen Nielsen says that central to this ‘process has been a strengthening of the tendency to treat Islam and Muslims in Europe as if they constitute an undifferentiated community’. However, he notes that Islam in Europe is far more diffuse than is commonly thought to be the case in contemporary debates. Nielsen also points out that, in much of Europe, a ‘process of secularization, in its broadest sense, has been under way for two centuries or more’, leading to the ‘disappearance of shared authoritative references and discourses’. This development has led to ‘an environment in which Muslims, especially those who have arrived since 1945, find a scope for reviewing what it means to be Muslim on a scale which is quite unfamiliar historically or in the countries of origin’. In essence the question for Muslims is: how is it possible to live a ‘Muslim life in a modern, non-Muslim, urban environment’? Nielsen suggests that the fluidity and increasingly fragmentary nature of Islam in Europe means that the traditional legal ‘recognition regimes’ applied to religion, previously developed for a particular set of historical circumstances, to a great extent are no longer applicable to the ‘realities on the ground’. They have become ‘unsustainably brittle and will have to give way to something that makes space for the fluidity’ of Islam on the European continent. Nielsen concludes that secularism is necessary to create space for participation and negotiation, but it must be a secularism that is conceived of and functions as a ‘framework’, and not as a competing ideology.

In the final chapter, sociologists James T Richardson and Valerie Lykes focus on another issue that has generated much controversy and debate: the emergence in recent decades of numerous minority faith groups in Europe. Richardson and Lykes examine the status of groups they characterise as new religious movements (NRMs) in six nations – Germany, France, the Netherlands, Hungary, Poland and Russia – as well as analysing the relevant jurisprudence of the European Court of Human Rights. They describe a picture of ‘tremendous variability’ in terms of the different ways that Europe’s nations and institutions respond
to minority religious groups. While some nations, such as Hungary and the Netherlands, are quite receptive to such religious difference, others, including France and Russia, are much less accommodating in this regard. Indeed, in parts of Europe, Richardson and Lykes point out that, in an effort to reassert their hegemony after the demise of Communism, some long-established religions have been in the vanguard of opposition to NRM and minority religious groups – with examples of this being the role played by the Roman Catholic Church in Poland and the Russian Orthodox Church in Russia. The authors thus conclude that both national European courts and the European Court of Human Rights have afforded a degree of protection to minority religions that, on occasions, has been decidedly mixed.

CONCLUSION

In attempting to document the complex relationship between secular and religious values in twenty-first-century Europe the chapters in this book demonstrate that, when it comes to such matters, Europe is a continent in which a range of divergent constitutional structures, views and opinions can be found. Although the vast majority of the states considered in this book are viewed as functioning liberal democracies (albeit to varying degrees), the challenge of identifying a detailed list of common ‘European’ values for such nations in regard to religion and belief is nonetheless a difficult and daunting one. As noted above, this lack of pan-European consensus has been – and continues to remain – the rationale for the long-standing willingness of the European Court of Human Rights to grant states a wide margin of appreciation as regards the protection of religious and secular values. The margin of appreciation is doubtlessly a useful mechanism, in the sense that it enables the European Court to take account of local sensibilities when making rulings in particular cases – yet, as Richardson and Lykes point out, its use can also result in the impoverishment of protection for minority faiths, and may also mean that some of the more philosophically taxing questions about the accommodation of religious belief remain unanswered.

It is a truism that ready answers are not easily found to the problems of accommodating and reconciling secular and religious values in Europe. Yet, in a continent that has been powerfully shaped by religious difference throughout its history, and is now the home of European citizens who subscribe to a broad range of religious and equivalent secular forms of belief, the importance of continually striving to identify a number of common and workable standards cannot be overstated. With its contributors
covering a range of disciplines, and providing insights from the perspective of many different nations, this edited collection aims to contribute, albeit in a modest way, to the debate on how the Europe of the present can best respond to the problems posed by the legacies of its religious and secular past.