

## Research Article

## Open Access

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# Religion and culture in Europe: law, policies and realities

<https://doi.org/10.1515/jcgs-2018-0003>

**Abstract:** Is religion simply a part of culture? Can religious diversity be managed as a subset of intercultural diversity? This article explores intercultural dialogue and its relationship to “religion” in the policies, documents and debates of the European Community. The argument is advanced that religious realities and concerns are misconstrued when religion is subsumed into culture. Religion needs to be historically and conceptually rethought and that for cultural and religious diversities to be skillfully managed in the interests of social solidarity and positive intercommunal relations both need to be addressed discretely and in tandem.

**Keywords:** Religion; culture; Europe; European Community; ICD (intercultural dialogue); IFD (interfaith dialogue)

## 1 Introduction

In *The Strange Death of Europe: Immigration, Identity and Islam*, Douglas Murray’s new and widely reviewed book, the associate editor of *The Spectator* writes of Europe’s impending suicide, mainly due to cultural pessimism and the dramatic increase in the numbers of “unassimilating”, largely Muslim, migrants (Murray, 2017). The book is sensational, focussing on Muslim sexual violence and unsubstantiated claims about Muslim attitudes and behaviours, but much more significantly, the author has conflated religion and culture (and multiculturalism) and misreported and misunderstood the laws and policies on culture and religion in Europe. This article addresses these relationships in an exploration of religion and culture in the European Union (EU), and while concurring about the importance of religious issues, this article argues for a disentanglement of the two as a necessary step in engaging with the real religious differences within and across the EU.<sup>1</sup>

The European Community is the unique and fascinating development of an initially economic and now political union of nearly thirty nation-states (Berend, 2016; Blair, 2014; Gilbert, 2012; Jovanovic, 2015; McCormick, 2014; Saurugger, 2014; Stivachtis, 2016).<sup>2</sup> Concerns with integration in such a complex union raise issues of understanding beyond national narratives and borders and generate vital debates as to what constitutes sufficiently shared values and common ground to foster a stable European identity, alongside other sub-European identities – national, ethnic, religious, cultural, linguistic, class and spiritual (Bodiroga, 2016; Bonnar, 2014; Cerotic, 2011; Day, 2012; Dieter Fuchs, 2011; Feltin, 2007; Friedman, 2012; Gould, 2014; Green, 2015; Klonari, 2015; Keulman, 2014; Lucarelli, 2011; McMahan, 2013; Vogt, 2014). In the post-Rawlsian world, assumptions about “overlapping consensus” and shared political principles are much more difficult to assume or even to argue for. Politics appear to manifest massive

<sup>1</sup> An earlier version of this paper appeared in Mansouri (2017), 145-170.

<sup>2</sup> There are few examples of former enemies creating successful economic and political unions.

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divisions and differences on almost every substantive matter of values, and common ground is less and less evident (Arts, 2004; Arts, 2014; Ghazaryan, 2014; McGhee, 2010; Rawls, 2005, 340; Rawls, 1987). The debate about identity and integration in the EU is illumined by looking at the European discourse on intercultural dialogue (ICD) as the principal contemporary vehicle for fostering integration by overcoming divisions, marginalisation and misunderstandings (Council of Europe, 1997; 2005a; 2007; 2008; 2015; European Commission, 2005; 2006; 2007; 2008; De Kock, 2010; Wilk-Wos, 2010). Alongside this, there is another discourse about religion, both intersecting and running parallel with that on ICD (Council of the EU, 2013; Chaplin, 2016; Faltin, 2007; Kratochvíl, 2015; Leustean, 2013; Leustean, 2014; Nelsen, 2013; Wildmann, 2012). The role of religion in the EU both supports and challenges the potentialities of ICD. The examination and analysis of the relationship between these discourses provide an opportunity to explore contradictions and tensions between these two distinct literatures so as to suggest more effective ways of addressing issues of European integration and identity.

Born as a bold response to the crises of the two European-initiated world wars of the twentieth century and dramatically enlarged by the end of the Soviet system, the EU continues in seemingly perpetual crisis. It is beset with a torrent of refugees and migrants, challenges to the Schengen Agreement, an alarming growth in the popularity of anti-immigration right-wing parties, the financial vicissitudes of the eurozone and a rising crescendo of terrorist attacks. Brexit, the 2016 UK referendum on EU membership and its consequent decision to leave, has served to highlight fundamental EU concerns with its identity and integration (European, national and local), sovereignty and security (Adler-Nissen, 2014; Liddle, 2014; Zimmermann, 2016).

The argument in this article is that the EU commitment to ICD – an ICD that includes religion as an aspect, or dimension, of culture alongside ethnicity and language – paradoxically limits the EU and its participant states from responding adequately to issues that manifest themselves as discretely religious concerns. This, coupled with the poor and limited framing of religion, is evidenced in the recent example of the “burkini” in France. This modest body-covering swimwear, originally developed in Australia, and understood by some Muslims to be “Shariah compliant” is favoured by some Muslim women and others (Glassman, 2016; Liphshiz, 2016; Covertogs, 2016). The choice to don the burkini by Muslim women is widely reported as being religiously motivated. More than 25 mayors of southern French towns and cities issued bans on the burkini during the 2016 summer of Northern Hemisphere. Religion in the EU is governed by the European Convention on Human Rights (formally the Convention for the Protection of Human Rights and Fundamental Freedoms, European Convention on Human Rights, 2002).

Article 9: Freedom of thought, conscience and religion states that

1 Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2 Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others. (European Convention on Human Rights 1950).

Leaving aside two concerns that will be returned to in the conclusion (first, the priority of the external over the internal – thought and belief over practice and observance and second, that religion is understood to not have the capacity of making any discrete and unique contribution to the common good), article 9/1 recognises the absolute freedom to observe one’s religion by choosing to wear the burkini as long as it does not negatively impact on democracy, public safety or order, health, or morals (Article 9/2). Thus, the mayoral bans were framed not as religious issues at all but in the unseemly and absurd terms of threats to public order, referencing the terrorist attacks in Nice and Paris, and, of course, none of the bans actually made explicit mention of the burkini at all. So, for example, the Nice ban focused on “correct dress, respectful of accepted customs and secularism, as well as rules of hygiene and of safety in public bathing areas” (Le Monde, 26 August 2016). The case was brought to the notice of the Conseil d’État, France’s highest administrative court, by the Collectif contre l’islamophobie en France (CCIF) and the Ligue des droits de l’Homme (LDH). The Court ruled unsurprisingly that the bans were “unlawful” as there were

no proven risks of disruption to public order or risks to “hygiene, decency or safety when swimming” (Le Monde, 26 August 2016).

The fallout included an intervention by the then Prime Minister Manuel Valls who was supportive of the bans, an attempt to make it an election issue by potential presidential candidate, Nicolas Sarkozy, and it became a leading global news story, widely negatively reported. The failure of the mayoral bans, the Court’s decision, the public reporting and comment to substantively engage with the evident and obvious religious dimensions of the case, and the oblique interpretation of the issue as an example of incomplete cultural assimilation, and not a dangerous one at that, meant that little or no progress on the underlying religious concerns could possibly be made. This example brings into sharp relief European – in this case, French – difficulties in effectively and meaningfully engaging with or managing religious diversity.

## 2 The EU and ICD

ICD, first entertained by the institutions of the EU in the 1980s as a strategic path to greater cultural and political integration, has risen in importance due to a variety of factors, including the terrorist attacks of September 11 and the response to them; the expansion of the EU to include nation-states beyond Western and Central Europe; the academic and political challenges to multiculturalism; the 2005 UNESCO Convention on Protection and Promotion of the Diversity of Cultural Expression and the increasing importance and centrality of ICD to UNESCO (for example, from 2002 UNESCO documents reference “ICD for peace”); the UN’s International Year for the Rapprochement of Cultures 2010 and 2011–2020 as the Decade of Interreligious Dialogue and Cooperation for Peace; the influx of migrants and refugees from the Middle East and Africa, particularly since 2011; and the ongoing threats and acts of terrorism, including from those who were born and who live in Europe.

For UNESCO, this “cultural turn” can be seen in its new Division of Cultural Policies and Intercultural Dialogue and reflected in the Universal Declaration on Cultural Diversity (UNESCO, 2001; see also its precursors UNESCO, 1982; UNESCO, 1996; UNESCO, 1998). This declaration states that “culture is at the heart of contemporary debates about identity, social cohesion, and the development of a knowledge-based economy” and links the promotion and protection of “cultural diversity” explicitly to “international peace and security” (UNESCO, 2001, 1-2). While the emphasis here is on the inherent value of cultural diversity based upon a universal human right to culture, there is a recognition that increased awareness of cultural diversity “creates the conditions for renewed dialogue among cultures and civilizations”. The following year, in the aftermath of 9/11, Koïchiro Matsuura, then Director General of UNESCO, spoke on the adoption of the Universal Declaration on Cultural Diversity as “an opportunity for States to reaffirm their conviction that intercultural dialogue is the best guarantee of peace and to reject outright the theory of the inevitable clash of cultures and civilizations” (UNESCO, 2002, 1). The same document reiterates that ICD is the essential vehicle for sustainable development (UNESCO, 2002, 11). The central importance and the links between cultural diversity, ICD and development have undergone further development by UNESCO (UNESCO, 2001, 61; Sténou, 2007).

ICD is further highlighted in Investing in Cultural Diversity and Intercultural Dialogue (UNESCO, 2009a). Here, the underlying reality of cultural diversity has “its corollary” in ICD, and it is through ICD that cultural diversity is protected and “effectively managed”. ICD is no longer an add-on or one approach among alternatives, but the basis of a “mutual understanding” that “permeates all UNESCO’s fields of competence” (UNESCO, 2009a, 2-3). ICD is necessarily dynamic, reflecting the changing nature, complexities and permeability of cultures that generate “multiple affiliations” rather than “exclusive and fixed identities” (UNESCO, 2009a, 45). ICD “is necessary as a permanent corrective to the diversity of our cultural allegiances” and the “only enduring response” to “mutual stereotyping” and the “unbridgeable differences” of “identity-based and racial tensions” (UNESCO, 2009a, 41-43). ICD has here become the “necessary” centre of the transitions to sustainable development, social integration and peace and reconciliation (UNESCO, 2009a, 49).

A parallel “cultural turn” can be traced beginning with an increasing awareness in EU documents. Although the first and immediate referent of “culture” was to the national cultures of the EU, it was just as important to recognise that cultures were not exclusively bound to national or regional territories but, due to migration and history, were increasingly transnational and/or global, and of course, the intertwining of these elements generated the task of consciously developing a European culture. Alongside this was a growing recognition of the significance of the cultural dimensions of life – predispositions, rituals, myths, narratives, practices and languages – in terms of meaning, values and belonging. Culture also became evident in the antidiscrimination legislation that made it unlawful to discriminate on the grounds of culture, sex, gender, age, ethnicity, linguistic group and, of course, religion. This new sense of culture as identity and habitus alongside older understandings of culture and cultural production fed into the notion of ICD as the vehicle for the management of cultural diversity and the need to develop the “competencies” to support this. The incidence of September 11 intensified and securitised the case for enhancing ICD, as reflected in the European Ministers of Education’s 2003 declaration on intercultural education in the EU, which acknowledged both the diversity of Europe and the overarching value of democracy and expressed their confident hope that intercultural education could reduce social exclusion, racism and marginalisation across Europe (Council of Europe, 2003, 2).

The Opatija Declaration on Intercultural Dialogue and Conflict Prevention highlights the role of ICD as an instrument for “conflict prevention” (Council of Europe, 2004, 1). Here, ICD is “to extend to every possible element of culture, without exception, whether these be cultural in the strict sense or have a political, economic, social, philosophical or religious dimension” (Council of Europe, 2003, 3). A further broadening of ICD can be seen in the Faro Declaration on the Council of Europe’s Strategy for Developing Intercultural Dialogue, which advocates that the development of ICD provides the foundations for “the political vision” of the Council of Europe, “both inside European societies and between Europe and the rest of the world” (Council of Europe, 2005b, 1). ICD is understood to be essential for “peace and international stability in the long term, including with respect to the threat of terrorism” (Council of Europe, 2005b, 3). Of particular significance is the transition to the new post-2008 ICD as the preeminent means “to manage cultural diversity” (Council of Europe, 2005b, 5).

The European Parliament’s explicit focus on ICD began in December 2006, leading to the European Commission announcing the European Strategy for Culture six months later, with its focus on awareness of “cultural diversity” and of shared “EU values”. The European Agenda for Culture in a Globalising World lists three dimensions to culture: ICD, culture as integral to foreign policy, and culture as vehicle for creativity, that is the “cultural economy” (European Union, 2007; Näss, 2009). The Council of Europe’s White Paper on ICD, *Living Together as Equals in Dignity*, followed in 2008, with the same year being designated as the European Year of Intercultural Dialogue, with its focus on cultural diversity, dialogue leading to enhanced mutual understanding and support for EU civic education promoting Europe-wide solidarity and social justice (*European Year of Intercultural Dialogue 2008*).

The Council of Europe’s White Paper contends that there is an urgent need for a new approach to the “management of cultural diversity”, a diversity now intensified by “history” and “globalisation”, with ICD as the principal mechanism and practice to address this within the context of its “increasing role to play in fostering European identity and citizenship” (Council of Europe, 2008, 17).<sup>3</sup> ICD is defined as an “open and respectful exchange of views between individuals, groups with different ethnic, cultural, religious and linguistic backgrounds and heritage on the basis of mutual understanding and respect” (Haydari & Holmes, 2015, 177). The older approach is multiculturalism, understood here as the “coexistence of majorities and minorities with differentiated rights and responsibilities” stressing distinct ethnic, religious, cultural, programmatic assimilation and eradication or public effacement of significant and unacceptable differences. This approach has been rejected in favour of a more dynamic alternative, ICD, in the attempt to build a future including “European identity”, based on “shared fundamental values, respect for common heritage and cultural diversity as well as respect for the equal dignity of every individual” (Aman, 2012; Brie, 2013; Demenchonok, 2014; Dervin, Gajardo, & Lavanchy, 2011). The best strategic instrument for

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3 Of course, the same claim needs to be made about the potential contribution of religious identity to citizenship.

overcoming existing, and preventing future, divisions is ICD, and this, it is contended, is utterly dependent upon the “democratic governance of cultural diversity”, the active promotion of intercultural competencies and the fostering of ICD both within the EU and at the international level.

The White Paper acknowledges a tension between ICD and the greater awareness and appreciation of diversity and the primary need for robust and sustainable European social cohesion (Council of Europe 2008, 4).

Generally speaking, there is little consistency in the various EU formulations of the relationship between ICD and interreligious dialogue (IRD), so that, for example, both are equally but separately promoted in the Warsaw Declaration (Council of Europe, 2005a) as vehicles for fostering “European identity and unity, based on shared fundamental values, respect for our common heritage and cultural diversity”. *Living Together as Equals in Dignity*, Section 3.5, focuses on the religious dimension. There is a reaffirmation of a universal and non-negotiable “freedom of belief”, though there can be restrictions on manifestation of that belief “under defined conditions”, and that the Council of Europe enters into “open, transparent and regular dialogue” with religious organisations, while recognising that this must be underpinned by “universal values and principles”. It is stated that “Christianity, Judaism and Islam, with their inner range of interpretations, have deeply influenced our continent.” Although this is clearly true at some level, Christianity’s predominant role is not acknowledged, resulting in a misleading and distorted view of the past and present significance of religion in the individual and collective lives of Europeans.

Religious influences are further minimised by reporting that “Europe’s rich cultural heritage is a range of religious, as well as secular, conceptions of the purpose of life”, effectively giving equal weight to secular and religious conceptions. The plural is revealing in that it suggests both a religious diversity as well as a religious/secular diversity of the purposes of life. Religion here is also reductively framed as a resource for the “conceptions of the purpose of life”, a philosophical idea, or notion, rather than a way of life that is lived by individuals in communities. The notion of religion used here is abstract and difficult to locate in any identifiable religious “form of life”, although this gap between theoretical abstraction and ethnographic realities is perhaps just as evident in the discourse on ICD. The priority in Section 3.5, however, is to emphasise that there is an overlap between the interests of the EU on the one hand and religious communities on the other hand in the promotion of “human rights, democratic citizenship, values, peace, dialogue, education and solidarity” (Council of Europe, 2008, paragraph 72).

Furthermore, the CoE document contends that IRD has a contribution to make to ICD. The management of cultural diversity is simply deemed here to include religious diversity: “Religious practice is part of contemporary human life, and it therefore cannot and should not be outside the sphere of interest of public authorities, although the state must preserve its role as the neutral and impartial organiser of the exercise of various religions, faiths and beliefs” (Council of Europe, 2008, paragraph 73). Religion is significant and as such in need of government regulation and management. However, the lack of understanding of the discrete and distinctive role of religion in European societies – even as a possibility – together with the reification of religion, the reduction of religious practice to cultural activity and religious belief to a broad category of beliefs, necessarily limits the analytical grasp of Europe’s religious past and present significance and therefore the capacity to effectively manage contemporary religions and religious diversity.

The very success of ICD in the EU is reflected in the raft of projects and activities promoting and engaging in ICD (Ecotec, 2009; Vidmar-Horvat, 2012). The clarity of the White Paper has perhaps been submerged in the plethora of ICD agendas, ranging from cultural heritage and museum ICD policy, diversifying the cultural arts and tackling discrimination and prejudice to explicit ICD components in settlement policies for refugees and migrants. Since 2008, the open method of coordination (OMC) has fostered cooperation between EU member states in the field of culture. There are fourteen OMC groups, one of which is ICD. Under the OMC, in the latest *Work Plan for Culture 2015–2018* of the Platform for Intercultural Europe, four priorities are listed: (1) accessible and inclusive culture; (2) cultural heritage; (3) cultural and creative sectors: creative economy and innovation; and (4) promotion of cultural diversity and culture in EU’s external relations and mobility (Council of the European Union, 2014). The Council of the EU in 2015 reaffirmed the centrality and priority of ICD in the context of developing a “comprehensive strategy” to address “the migration and refugee crisis”. They acknowledged that “culture and the arts

have their role to play in the process of integrating refugees who will be granted asylum status as they can help them to better understand their new environment and its interaction with their own socio-cultural background, thus contributing to building a more cohesive and open society” (European Union, 2015, 7). ICD is a means to “bring individuals and peoples together, increase their participation in cultural and societal life” (European Union, 2015, 4).

More recently, ICD has come to be framed as leading to “civic integration”, with ongoing ICD between co-existing cultures (Agustín, 2012; Barrett, 2013; Levrau & Loobuyck, 2013; Jackson, & Passarelli 2008; Jackson, 2013; Jesse, 2017). The balancing act between social cohesion and host-country values and respect for diversity is still evident, but ICD has a great value in starting with, and giving full recognition to, ongoing cultural diversities. ICD education and specific policies and programmes have had positive impact, creating new spaces for conflict prevention and resolution, and have made progress simply by fostering awareness of cultural diversity (Wiater, 2010; McMahon, 2013; Innocenti, 2015 Bergan, Harkavy, & van’t Land, 2013).

ICD aims at breaking the idea of established, majoritarian hosts helping newer citizens and residents to settle on the host’s often “generous” terms, in favour of the state acting as an impartial catalyst promoting ICD agendas and obligations for all citizens and communities. The parallel is the transition from the United Nations Millennium Development Goals, where established nations were to help the less developed, to the UN’s Sustainable Developments Goals, where all states have obligations supporting the broader agenda (Sachs, 2012; Maurice, 2015; United Nations, 2015; Fukuda-Parr, 2016). The broader ICD agenda still appears to be somewhat assimilatory at the civic level while allowing new spaces for acceptable cultural expression (on acceptable and unacceptable “culture”, see the Conclusions section).

### 3 The EU and Public Religion

In spite of the crucial, and often not fully acknowledged, role played by the Christian Democratic Parties of Western Europe, together with Catholic intellectuals and activists, in the initial developments of first economic and then political arrangements for a single European polity, there has been little formal EU deliberation about religion (Mudrov, 2011; Mudrov, 2014; Grottsch, 2009). Former European Commission President Jacques Delors in a speech in 1990 is reported as having spoken of the need for a “soul for Europe” (*une âme pour l’Europe*) to ensure Europe’s very survival. Delors’ comment was glossed by the European Commission as “giving a spiritual and ethical dimension to the European Union” (see Hogebrink, 2015). He established links with European religious and other non-confessional organisations with the intention of having dialogue partners regarding values and spiritual concerns and to foster important civil society players to actively participate in the processes of developing a unified Europe.

The first official recognition at the EU level of religious and non-religious philosophical organizations was in the 1997 Treaty of Amsterdam, Declaration 11, which acknowledged the existing relationships between member states and their “churches and religious associations” in state law and expressed respect for such organisations (European Union, 1997, 113). This reflected the very different relationships across the EU with established churches, state churches and different models and degrees of the separation of church and state. The Declaration 11 also granted equal recognition to non-confessional organisations, such as humanists, reflecting earlier formulations that insist on understanding religion not as an independent factor but as an alternative to humanism, rationalism and Freemasonry. As part of the EU’s work towards a constitutional treaty, from 2002 there were a series of consultations about the role of the churches and the place of Christianity in the EU, including a particular acrimonious debate over whether God and/or the centrality of Christianity should be directly referenced (Menendez, 2005). For example, in *The Spiritual and Cultural Dimension of Europe. Reflection Group – Concluding Remarks* (European Commission, 2005), the significance of religion is vouchsafed in the most insightful claim that “markets cannot produce a politically resilient solidarity” and the acknowledgement that religion might have an important role to play in this. Stress is also put upon the secular and religious elements of European heritage, again insisting

on paralleling the religious and the secular. It is equally clear, however, that these religious elements are not just “heritage”, as “only in the past”, but an integral part of contemporary European life as seen in the recognition that:

The presence of religion in the public sphere cannot be reduced to the public role of the churches or to the societal relevance of explicitly religious views. Religions have long been an inseparable component of the various cultures of Europe ... active “under the surface” of the political and state institutions; they also have an effect on society and individuals. The result is a new wealth of forms of religion entwined with cultural meanings (European Commission, 2005, 5).

This recognition of the fact that many European nations have national forms of Protestant or Orthodox Christianity, or Roman Catholicism, as integral features of the life of the nation is important not only in acknowledging the specific histories of member states but also in addressing the role of Christians in the formation of national identities and the ways this is challenged by secularists and adherents of minority and migrant faiths. The other side of the same coin is, of course, the embracing of secular ideologies as a weapon against minority faiths, as seen recently in Le Front National’s espousing of secularism in relation to Muslim dress codes. Religious symbols do have cultural, national and other identity meanings, raising concerns about the illegitimate and legitimate use of religious signs and symbols in public life. The report advocates that the EU should foster the “power of Europe’s religious faiths” and support and deploy this “on behalf of the cohesion of the new Europe” (European Commission, 2005). There are clear indications of the need to rethink state “laïcité” to allow for this greater public profile of religion, and there are sketchy deliberations about the “political relevance of Islam” in Europe and beyond (European Commission, 2005, 7).

The 2004 draft European Constitution excluded God and Christianity from the treaty’s preamble and allowed only a more general reference to “religious heritage”, but the Treaty of Amsterdam, Declaration 11, mentioned earlier, was included (Treaty, Art. 37). The debate continued after the failure to ratify the European Constitutional Treaty in 2005 with the President of the Commission meeting Christian, Jewish and Muslim religious leaders in 2005 and attending a colloquium in 2008 organised by the European Humanist Federation (EHF) and the Centre Action Laïque on Laïcité et droits de l’Homme.

The core EU document, the Treaty of Lisbon, was signed in 2009 (European Community, 2007; Schlesinger & Foret, 2006; Mudrov, 2016). The treaty’s preamble begins:

Drawing inspiration from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law.

This serves to place the religious heritage of Europe alongside, and equal to, Europe’s cultural and humanist traditions as the foundations of the core value cluster, the “ultimate good” of the EU. “Religious” rather than “Christian” heritage further obscures the fact that Europe’s religious heritage is, in fact, overwhelmingly Christian. The understanding of heritage as that which is in the past is highlighted by the first two words. Religion is one inspirational source among others and has no singular or particular authority or perhaps contemporary presence (Leustean, 2012; Leustean & Madeley, 2013; McCrea, 2009; Mudrov, 2016). The sense is of religious, and other, actors initiating the process in the past that led to human rights and democracy in the EU; however, even this is unclear and vague.

Finally, in 2009, the Treaty on the Functioning of the European Union (TFEU, 2007, effectively updating the 1957 Treaty of Rome) was adopted, including Article 17 (European Union, 2012). This section reaffirmed in law – based on the Treaty of Amsterdam, Declaration 11, 1997 – that the EU “respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States” (Article 17/1) and “respects the status under national law of philosophical and non-confessional organisations” (Pollock, 2013). Furthermore, the TFEU provides a legal basis and framework for dialogue between the churches and other religious, philosophical and non-confessional organisations and formalises the existing dialogues with the Commission President, the European Parliament and the European Council. MEPs, many of whom have religious and other affiliations, which can impact on their decisions and voting behaviour, emphasise the problems of attempting to separate people from their values and convictions. All major religious groups in Europe now have full-time, permanent representatives in

Brussels or Strasbourg, as do various humanist and rationalist associations (Foret, 2015). There is thus a degree of recognition of the religious dimensions of the constitutional values and public morality in the life of the EU.

In 2006, the European Parliament's Committee on Culture and Education commissioned a briefing paper on ICD and IRD that reports the potentially negative consequences of intercultural agendas and debates that explicitly set up Christianity against minority religions, such as Islam and Judaism, or religion against secular norms. The report understands ICD as being the "wider frame" and it is within this that IRD should be located in order to reduce the polarisation of secular and religious groups. The paper rightly reports the broad church and religious support for ICD (Figel, 2007). Following an ombudsman's report on the complaint about unwarranted religious privilege in the European Humanist Federation (EHF) in 2011, the Council of Foreign Affairs published guidelines on the promotion and protection of freedom of religion, or belief, in EU external relations. These include reference to the freedom from religion and the freedom to change religion and an explicit statement as to the secular neutrality of the European Parliament and, by implication, the EU itself.

The idea of secular neutrality is reaffirmed in the Situation of Fundamental Rights in the EU, a resolution adopted by the European Parliament in 2015, ostensibly to prevent discrimination against any religious or non-religious community and to guarantee equal treatment for all. This resolution also expresses concern that issues of religious insult and blasphemy laws could threaten freedom of speech in the EU. Although antisemitism, Islamophobia and all forms of fanaticism and attacks on religious buildings are condemned, it seems as if attacks on religion are in fact permitted while damage in the physical realm is vehemently denounced.

The context of religion in the EU is rapidly changing. The older impact of the French *laïcité* model is in decline but still evident in decisions of the European Court of Human Rights and the domestic legislation and decisions of a number of member states. So, for example, some of the older secularist prejudice still appears evident, as in the Grand Chamber of the European Court of Human Rights when, in 2013, under auspices of the Council of Europe, decisions concerning British cases of the wearing of crosses at work, it ruled that wearing a cross is not "an essential manifestation" of Christianity and that a crucifix was a "health hazard". This contrasts with the rulings in *Lautsi v Italy* (2011), where there was a wider and perhaps more sophisticated recognition that religion does have a role in European public life, in this case in regard to crucifixes in the classroom (ECHR, 2011; McGoldrick, 2011). The right to be free of religious coercion, that is, of having freedom from religion, as evidenced in secular state education, is giving way to the recognition of parental rights to choose their children's education, including religious education (European Parliament resolution, 13 June 2013). The US model of self-regulated religious freedom nationally (internally) and pressure for increased religious freedom in international relations (externally) is in the process of being adapted and adopted in the EU (European Union, 2013). This has created the inconsistency that the EU (Lisbon Treaty, Article 17) allows European member states to determine their own relationships with their own state churches and religious institutions, but it does not afford the same right to states outside the EU and takes on the right to advocate for regulation and change of the content of religion in its external relationships. The Europeans still appear fixed on combining religion with other "beliefs" and thus refuse the recognition of even the possibility of a unique religious contribution to values and public life. The 2013 guidelines on the promotion and protection of freedom or belief recommend that the phrase "religion or belief" always be used in full. They also, by distinguishing between people who hold beliefs and the beliefs themselves, permit and legitimate offence. Most recently, the debate about hate speech has been attempting to address this issue. The neutrality of the EU in matters of religious content is based on not being aligned to any specific religion (or belief). A final consequential addition in the guidelines is the need to balance religious rights with other fundamental human rights, such as "freedom of expression or equality". This balancing of human rights is somewhat predetermined by the Council of Europe's 2007 resolution that "states must require religious leaders to take an unambiguous stand in favour of the precedence of human rights, as set forth in the European Convention of Human Rights over any religious principle".



The American model of “reasonable accommodation” (Rehabilitation Act, 1973), initially developed in terms of disabilities, was extended to religious diversity.<sup>4</sup> This model of “reasonable accommodation” of religious diversity seems to be the most useful principle, particularly in relation to religious diversity in employment and education sites, and it is making steady inroads in the EU. In 2015, for example, the Parliamentary Assembly of the Council of Europe in its report, “Tackling intolerance and discrimination in Europe with a special focus on Christianity”, advocates reasonable accommodation especially in the workplace and education (Council of Europe, 2015). The EU already operates a “reasonable accommodation” framework for disabilities, and there are good reasons to support the development of this model as part of managing EU religious diversity. It is not necessary to follow the US in determining that reasonable accommodation should be the subject of the limitation of “fiscal neutrality to employers” or operated on the so-called free market principles.<sup>5</sup> Europe is in no need of US-style culture wars. This new emphasis on the freedom of religion is increasingly separating ICD from religion. This has the advantages of addressing religious concerns independently, explicitly and directly but the very significant disadvantage of detaching religion from the management of cultural diversity with discussions and debates on the creation of policies on the management of religious diversity. The management of religious diversity should parallel the management of cultural diversity, in the need for education in religious diversity – religious literacy – and the development of competencies in religious diversities. Effective and responsible management of religious diversity is not interfaith dialogue, the dialogue between religions and the dialogue between religions and the state, nor is it the use of the courts and legislation to ensure religious rights. However, currently, both UNESCO and the EU subsume the management of religious diversity under the broader rubric of cultural diversity.<sup>6</sup> ICD as the vehicle for the management of cultural diversity is predicated on the central role and responsibility of the state, or superstate, to maximise the freedom and opportunities of its citizens, including religious and spiritual, and to ensure that citizens have a life together with their differences. The management of religious diversity should likewise be a state/government responsibility in dialogue with religious communities and be supportive of social stability and society more generally.

The EU has not treated all religions equally and certainly is not neutral, in that it favours those that have a history of compromise with secular humanists and with the state. This ensures that other religions, particularly those of migrants to Europe from colonial contexts with their very different histories and theologies of political power and political theologies, are pressured prejudicially to adapt themselves to Christian European models of the role of religion in Europe.

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4 Although the term “reasonable accommodation” was perhaps first found in Canadian labour law jurisprudence (O’Malley, 1985) referring to employers’ duty not to cause “that cause undue hardship”, it is in the US that reasonable accommodation has been focused specifically on the management of religious diversity. The Equal Employment Opportunity Commission interpreted the 1964 Civil Right Act of 1964, Title VII, on non-discrimination on the grounds of religion as requiring “reasonable accommodation” on the part of employers to allow for religious differences. The caveat is that this extends only to accommodations that do not cause undue hardship or more than *de minimis* cost to the employer.

5 This US model of “freedom of religion” being promoted internationally by American and other scholars and advocates is often linked explicitly to the promotion of “free markets” and global free trade. The US State Department includes the Office of International Religious Freedom (OIRF), headed by the Ambassador-at-Large for International Religious Freedom, currently David N. Saperstein. The OIRF “has the mission of promoting religious freedom as a core objective of US foreign policy” (<http://www.state.gov/j/drl/irf/>). In May 2016, the President of the European Commission announced the establishment of a new position, based on the US model, of special envoy for the promotion of religious belief outside the EU, and that Ján Figel, former EU Commissioner and Slovakian politician, was duly appointed. The European Commission President Jean-Claude Juncker stated that “freedom of religion is a principle inherent in the foundation of the EU”.

6 How does UNESCO understand the relationship between ICD and interfaith dialogue? Although it is clear that interfaith dialogue has an essential role to play in fostering social cohesion and reconciliation between conflictual religious parties, this is understood as within “the wider context of furthering intercultural understanding” (UNESCO 2009a, 49). At times, the discourse of the UNESCO documents comes close to identifying religions as particular sources of conflict based on their misunderstanding of “culture” as exclusive, static, and fixed in stark opposition to ICD, both as approach and understanding of culture (UNESCO 2009a, Chapter 8, Religious mediation for social cohesion; UNESCO 2009, 7-9).

## 4 Conclusions

ICD has made significant contributions to enhancing relations between different communities and to the “masterplan” for fostering Europe-wide solidarity and social cohesion. The tensions between different understandings of culture have led to ICD sometimes seemingly moving in contradictory directions. There are, at least, two different senses of “culture” in the EU documents on ICD. First, “national culture”, descriptively, in the sense of predispositions and characteristic beliefs and behaviours derived from shared experience, education and histories, particularly where there are significant overlaps of ethnicity, language and religion. Second, culture, again descriptively, in the more anthropological sense, as broad practices and behaviours associated with a locality, ethnicity or particular migrations. There is also a normative element that arises from the second cluster: the distinction between acceptable and unacceptable cultural practices or at least debates about where this line is to be drawn. My contention is that very often those practices and people deemed unacceptable rarely reflect anxieties about culture *per se*, but are more often reflecting specific concerns about religion.

The Hungarian, Slovakian and Polish debates about acceptable and unacceptable identities and practices of potential migrants are, in fact, directed against Muslim refugees and migrants.<sup>7</sup> Muslim dress codes or manifestations of Islam are “unacceptable culture” in the public arena but are, in fact, about religion. The supposed malleability of culture misleads when dealing with religious issues, which so often prove to be resilient to pressures to change or external claims that these practices are not essential or significant. This distinction between acceptable and unacceptable practices is vital to promoting positive changes in the management of religious diversity in the EU. Rather than arid discussions of “common ground” or shared values reported as being held by more than one person or group, the discussion needs to be pursued at a different level. Religion/culture as food, festivities, folkways, fashion and fables are acceptable as reflected in their inclusion in pedagogical materials and also Eid al-Fitr, Diwali, or the Chinese New Year in European civic calendars. However, differences about the moral limits to freedom of expression and communal offence; polygamy; same-sex relationships; crime and punishment; a good society and a meaningful life; ways of behaving that create social cohesion in particular communal settings; the origins of human rights, morals and ethics; and social, communal and individual responsibilities are all, in the anthropological sense, cultural too. However, these issues are clearly analytically different and need thinking about and managing differently. These differences are perhaps more appropriately labelled as “religious”, and while it is true that differences rather than banal commonalities are easier forms of cultural diversity to manage, the airing of profound religious differences can foster prejudice, chauvinism, exclusion and fear. The question might better be formulated not as to what is the common ground, but what can be accommodated while maintaining dignity for all those concerned. Just as corporate directors and those involved in governance are asked to contemplate their “risk for appetite”, so those involved with religious governance might consider their “appetite for acceptable religious difference”. (Hassani, 2015).

To say that a European is a Protestant does not mean that he or she necessarily subscribes to a theory of consubstantiation rather than transubstantiation or adheres to a particular model of ecclesiastical leadership. Likewise, being a European Muslim does not necessarily entail expertise on specific legal interpretations of a practice. Rather, it means that he or she was formed in, knows how to live within a particular religious community that distinguishes itself from other communities and is aware of the dynamic debates and discussions within the community over matters of consequence. Religion is not belief alongside other ethical beliefs that logically gives rise to particular behaviours, but beliefs and behaviours that arise and are manifest in tandem. Religious practice is epistemologically a way of knowing not a secondary and subsequent feature of religious belief. This European legacy of philosophical dualism that disembodies and privatizes religious freedom and structures and manages the physical, while distorting Christianity alongside other religious traditions, does reflect the Protestant priority on personal belief,

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<sup>7</sup> The 2015 Slovakian proposal to accept only Christian and reject Muslim refugees and migrants was condemned by the Secretary General of the Council of Europe. The Slovakian argument was that only Christian migrants could possibly settle and be part of a Christianity solidarity.

providing the basis for individual and communal religious life. There are newer and more applicable philosophical alternatives. Other religious traditions are not so easily rendered as a list of fundamental beliefs that in turn generate individual and communal religious practice.

In the case of *S. A. S. v. France*, held in the Grand Chamber of the European Court of Human Rights in 2013 and 2014, the Court ruled that the French ban on face covering did not violate European Convention on Human Rights (ECHR) provisions on the right to privacy (Art. 8), freedom of religion (Art. 9), inhuman or degrading treatment (Art. 3), freedom of expression (Art. 10), freedom of assembly (Art. 11) and discrimination (Art. 14) (European Court of Human Rights, 2014). The judges, however, decided by a majority of fifteen to two that the French state did have the right to ban the burqa or niqab, which is used for covering the face in public places (Law #2010-1192, 2010). The French state argued that under Article 9/2, the limitations on religious freedom were “necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others”. The Court found this convincing, and the ban was upheld as a necessity to ensure “le vivre ensemble”, so that people could live together. This seems unreasonable and unaccommodating, and the public safety angle is unconvincing. Who exactly is living together with who? The development of a model for the management of religious diversity, intersecting and overlapping with ICD models of managing cultural diversity, focussed on religious literacy and competencies, incorporating reasonable accommodation, within a dynamic framework of democratic human rights would open a new era for religion in the EU and directly address the barriers to le vivre ensemble in terms of Europe’s changing social realities and ideals.

In summary, religious diversity is a European social fact; in fact, we could refer to this growing religious diversity as a hyper religious diversity of Christianity, Islam, Judaism, Sikhism, Buddhism, Hinduism and secularism where major religious traditions intersect with established host cultures and waves of immigration, with near infinite varieties of commitment, practice and identifications. The EU has only just begun to engage with this increasingly complex social reality. As yet laïcité and existing legal and political structures promoting forms of assimilationist integration are proving to be inadequate as means of managing this new religious diversity. This new diversity requires a new model for its management that opens up creative opportunities for living together with our differences rather than a closing down of the same. The EU has a crucial and central governance role to play in this. The dynamic and changing religious diversity in Europe guarantees that there will be further religious tensions over religious practices and values; the important issue is not the elimination of such conflicts but developing a framework and policies to openly and peacefully manage them. New narratives and collective practices (civil religion?) are needed that embrace the past and allow inclusive futures to be framed.

The whole issue of possible Turkish membership generated in the EU calls for a recognition of the foundational and ongoing Christian character of Europe. This is an invitation for dialogue not its closure (Hurd, 2006). There is a need to have a more sophisticated and less dualistic account of religion that recognises the subtle interplay between beliefs and practices. There is also a need to be open to the particular contribution that religion has played, and can play, in fostering solidarity and social cohesion alongside its unique spiritual contributions to creating meaningful and purposeful lives (Nelsen & Guth, 2015, chapter 10). Separating ICD from religion is helpful as long as the benefits of ICD are not compromised or lost, in particular, the model of explicit state and civic society responsibilities for the management of diversity.

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