Each European country considered in this study had the headscarf controversy that it
deserved, passionately political and philosophical in France, legalistic to crypto-
nationalist in Germany, sanely understated to bizarrely extremist in Britain. But each
country, despite highly divergent legacies of state, religion and nationhood, still *had a*
headscarf controversy. So isn’t there something commonly *European* in this?

Ever since 2001, there has been much scrutiny of the paradox that only Europe,
but not the United States, the “great Satan” of radical Islamism, has problems in
integrating Muslim immigrants.¹ For one American observer (Fukuyama 2006:14), the
reason is that “national identities in Europe remain far more blood-and-soil based” and
less “political” than in the United States. This is an obvious non-starter for “Republican”
France and “multicultural” Britain; even for “Christian-Occidental” Germany, where is
the blood, where is the soil? For another American, Europe’s troubles with Muslims
reveal it to be a “closed Christian club.”² Again: is this Britain, is this France? The same
question has to be asked of Aristide Zolberg and Long Litt Woon (1999:7), who similarly
referred Europe’s problem of Muslim integration to the fact that “European
identity…remains deeply embedded in Christian tradition.” If that were the case, why has
the institutionally most “Christian” of our cases, Britain, whose head of state is the
“defender of the faith”, also been the most accommodative of Muslims, not only with
respect to the headscarf (see Joppke 2009)? Rounding up contemporary American views
of the European Muslim problem, Joan Scott (2007), in a nuanced and elegant account of the French headscarf controversy that is laudably sensitive to “local context” and eschewing lump-talk of a “European” Muslim problem (p.9), finds that a colonial view of Muslims as “lesser people” undergirds the French aversion to the headscarf, so that the “fervent nationalism” of the champions of laicity is really “another mark for racism” (p.98).

Various accents are set throughout these analyses: nationalism, racism, exclusive state-church amalgams. But always the problem is located on the part of “Europe”, in terms of an alleged exclusiveness of its states, cultures, peoples. Conversely one can hear loud and clear the sigh of relief: luckily not in America, where the “recognition of difference” is in place (Scott 2007:182).

The attentive reader of this book will have difficulties identifying a common “European” theme along such lines. If anything, Europe’s problems with Muslim integration seem to be more on the input-side: Muslims’ vast overrepresentation in the immigrant population, their low skill and educational levels, and persistent socioeconomic marginalization, even into the second and third immigrant generations. There is no evidence that religious exclusion is behind these integration deficits. Being “Muslim” in a creedal sense is not the source of disadvantage; instead, this is the globally available idiom to articulate other-caused disadvantage.

Schirin Amir-Moazami (2007) observed, in a study of France and Germany, that headscarf controversies are a second-generation phenomenon and that “looking closely, they coincide with the institutionalization of Islam” (p.15). In other words, “Islam” is peripheral to the problems of Muslim integration in Europe. The fixation on headscarf
controversies, to which, of course, a book likes this must contribute, is doubly distorting. First, it highlights an exception to the rule of successful Islam accommodation in Europe, both through the individual rights and organizational recognition tracks. If one considers that explicit Muslim claims emerged in earnest not before 1989, the year of the Rushdie controversy in Britain and the first Foulard affair in France, the speed and depth of accommodating them has been breathtaking, up to the point that even “laicist” France is now providing state-financed Imam education. Secondly, in conveying that religion is the problem, a headscarf fixation distracts from the real causes of disadvantage, which are mainly socioeconomic. To the limited degree that religion contributes to Muslims’ socioeconomic problems, it is less as a cause of discrimination than in terms of Islamic precepts preventing women from seeking employment outside the family, which in Britain, for instance, is considered the “main reason” why Pakistani and Bangladeshi Muslims “remain at the bottom of the economic pile.”

By the same token, it is simply not true, as Joan Scott (2007) claims for the case of France, that lawmakers’ fixation on banning the headscarf was meant to deny existing socioeconomic disadvantage, being “a delusional ‘fix’ given the much larger set of social problems that needed to be addressed” (p.115). Instead, there has been a lexical ordering of, first, tackling the headscarf and, then, fighting discrimination. The Stasi Report (2003: section 3.3.1) was well aware of epidemic unemployment and school failure in the cités, and there was no presumption that banning the headscarf would be a remedy to this. On the contrary, as if driven by guilt, French lawmakers stressed that a headscarf ban would have to be “accompanied by a more marked effort to combat all discriminations”. Epitomized by the creation of the Haute Autorité de lutte contre les discriminations et
pour l’égalité (HALDE) in early 2005, the “combat” against discrimination promptly took off when the headscarf chapter was considered closed.

More philosophically attuned than their European neighbors, the French picked up on the affront to liberalism that the headscarf and the entire challenge of Islam constituted. If anything, this is the common European theme underlying the headscarf struggles reviewed in this book, even though it is one that is only obliquely “European”. This dimension is strikingly left out by Joan Scott, who reduces to parochially “French republican theory” the view that “the autonomous individual…exists prior to his or her choices of lifestyle, values, and politics” (2007:127). This may be “French republican”, but it is also, and above all, the key tenet of liberalism—Rawls’ “original position” and his notion of “public reason”, according to which one should address one’s fellow citizens only in non-sectarian terms that all can understand, is premised on the same view of the individual. Conversely, the Islamic view of the individual as “self-governing but not autonomous” (Talal Asad, quoted ibid, 128) cannot but clash with the liberal view. It is unhelpful to deny this clash of principles under the “racism” epithet. So is an alternative way of denying the conflict through a strangely elastic definition of “autonomy”, according to which the latter is not, as one would think, “rejecting the pressures of religion and family” but, weirdly, “understanding the choices others have urged you to make” (Scott 2007:104). If this is autonomy, what is submission?

If the freely chosen veil, thriving on an individualized, de-ethnicized understanding of Islam (see Roy 2004:ch.4), is the biggest casualty of anti-headscarf laws, one also has to see that the choice exhibited in donning it is truncated. If the veil is chosen, this is choice that immediately denies itself. Because, if the veil were choice all
the way down, why not take it off according to the moment? Instead, headscarf women say they have no choice because God has chosen for them. But how can there be choice to have no choice? A study of headscarf-wearing women in Germany and France, which set out to find traces of “Islamic feminism” and of critiquing Islam “from within”, found mostly views that reaffirmed “orthodox Islamic discourse”, which notably “disadvantage(s) women” (Jouli and Amir-Moazami 2006:633f). Strikingly similar to the “pious” women of the Egyptian mosque movement (Mahmood 2005), French and German Muslim women’s knowledge-driven, and thus non-traditionalist search for the “pure Islam” only reinvented the traditionalist wisdom that “‘submission’ and ‘obedience’ can manifest Islamic virtues” (Jouli and Amir-Moazami 2006:634). As a French mosque activist explicates her vision of the “pious self”: “The conscious and rigorous Muslim who loves Allah and who wants to satisfy him is more in the domain of duty…than in the domain of rights.” Indeed, this is “a new form of submission” (ibid, 638).

If individualized Islam remains under the spell of Islamic orthodoxy, the former cannot but reinforce the orthodox tenet that Koran is “uncreated” and co-eternal with God. This is because something akin to the 2nd Vatican Council, in which the Catholic Church belatedly accepted historical criticism of the Bible, has yet to occur in Islam. The intellectual groundwork for reform may exist (as claimed by Roy 2005:80-88), but not the “leadership through which reformist ideas can be effected at the popular level” (Ruthven 2007:8). If fundamentalism was originally defined by the belief in the “inerrancy” of the Bible, Islam, which unisono attributes a similar status to the Koran, is structurally fundamentalist. Samuel Huntington (1996:217) has got it right: “The
underlying problem for the West is not Islamic fundamentalism. It is Islam.” In pious Muslims reverberates the archaic power of religion, which is not merely subjective “belief”, as which it is channeled in the liberal constitutional state, but objective truth toward which there cannot be choice. Accordingly, as Naomi Stolzenberg (1993:612) demonstrated in a brilliant analysis of the US Supreme Court’s famous Mozert case, even “neutrality” is an assault to religious beliefs as it brackets the truth question.

Jürgen Habermas (2006:14) argued that the “religious citizen” in the West is expected to be able to take three “epistemic attitudes”—toward “other religions”, thus accepting religious pluralism; toward “the independence of secular from sacred knowledge”, thus accepting modern science; and toward “the priority that secular reasons enjoy in the political arena”, thus accepting positive law and profane morality. Islam provides obstacles in all three respects, as it is notionally the final revelation that supersedes Judeo-Christianity (and thus cannot but look down on the latter, even though much less than on non-Abrahamic religions), and as it rejects the cognitive and moral dualisms that are the hallmark of Western Christianity.

It is even difficult to retain the distinction, dear to polite opinion in the West, between Islam as religion and “Islamism” as politicized religion (see International Crisis Group 2005). Islam is not a “religion of peace”, as US President George Bush and others want it to be, but a “religion of law” that is “inherently concerned with governance and so political in tendency” (ibid. 2). Even for ordinary Muslims, “Islam is an intrinsically public matter” (ibid.), not to be limited to a merely private sphere. The International Crisis Group provocatively concludes that the “postulated antithesis between ‘ordinary Muslims’ and Islamic activists is flimsy and liable to break down under pressure. And it
can safely be said that most, if not all, Muslim populations today are living under great pressure” (ibid.).

A closer look at how mainstream Muslim jurists view the presence of Muslim immigrants in the West confirms the intrinsically political nature of Islam (see Shavit 2007). While Muslim jurists no longer object to Muslims’ immigration to the West, this is on the condition that the latter “place religious identity above national and ethnic identities and…promote the interests of a global Muslim nation” and that they excel as “model Muslim(s)” (ibid. p.2). If Joan Scott saw the French headscarf ban motivated by the (questionable) view that “one could not be both Muslim and French” (2007:135), one should be aware that this view, however little it may hold water on the French side, is exactly reciprocated by leading Muslim jurists, such as the Egyptian Yusuf al-Qaradawi, the head of the European Council for Fatwa and Research, considered by many as “the most powerful theologian of the Islamic world”.  

In particular, three religious duties are imposed on Muslim immigrants. First, they have to be united, “like a building whose bricks cement each other” (Qaradawi, quoted in Shavit 2007:2). Secondly, they have to resist assimilation. In particular, if Muslims “find it extremely difficult to bring up their children as Muslims, they should return to their countries of origin” (Qaradawi, ibid. 4). Finally, they have to proselytize. Says Qaradawi: “Muslims in the West should be sincere callers to their religion. They should keep up in mind that calling others to Islam is not only restricted to scholars and sheikhs, but it goes far to encompass every committed Muslim” (ibid. 5). If the French Conseil d’Etat denied that the headscarf was in itself proselytizing, Qaradawi would respond that a non-proselytizing headscarf wearer had failed her religious obligation. In sum, immigration is
okayed, even welcomed as a “powerful weapon in the struggle between the West and Islam” (ibid. 3), but only on the condition of heightened religious vigilance and activism. While Western political elites worry about Muslims’ “dual loyalty”, this is no issue for Muslim jurists, for whom Western nation-states are “mere social mechanisms enabling Muslims to practice Islam to its fullness” (ibid. 6). Expected to implode from their inner spiritual void, if not to be destroyed by the wrath of God for their “idolatrous barbarism” (Buruma and Margalit 2004:102), Western nation-states are simply no serious competitor to the spiritually strong, global Muslim nation. As Uriya Shavit (2007:6) sums up her interesting review, “For mainstream Muslim jurists, Islam is not a culture, a religion, or a tradition, but rather an alternative type of nationality which claims jurisdiction over all aspects of human activities.”

For Islamic doctrine, Muslim immigrants’ “integration” into the Western nation-state is at best instrumental. A good example for this is the “Islamic Charter” of the Central Council of Muslims in Germany (CCMG), issued in February 2002 with much media fanfare to clarify “the relation of Muslims to state and society”. Its sections 10 to 13 indeed commit the “Muslims living in Germany” (the notion of “German Muslims”, dear to German politicians of all stripes, is carefully avoided) to the principles of the Basic Law, even renouncing the goal of “creating a clerical theocratic state.” But these sections have to be read “with the eyes of a religious jurist and his sense for small print”, as one observer commented (Ammann 2004:84). The commitment to secular law is conditional on the notion that being granted a visa, residence permit, or naturalization are “contracts” that oblige Muslims to “respect the local legal order” (section 10). “For that reason,” the Charter continues, that is, out of a contractual obligation not a belief in the
intrinsic merit of liberal democracy, “Muslims affirm the liberal-democratic order of the Federal Republic of Germany, including party pluralism, women’s right to vote, and religious liberty” (section 11). And, again, “for that reason” (to be contractually obliged) Muslims “accept the right to change one’s religion, to have another religion or no religion at all” (section 11). When asked whether he considered the principles of the secular state as “unalterable basis” for Muslims, the president of CCMG, Nadeem Elyas, responded evasively: “Yes—as long as Muslims are in the minority” (Ammann 2004:86). This was consistent because, once Muslims constituted the majority, the “contract” was void and another set of laws, that of the “House of Islam,” applied.

One has to say: whether liberal democracy is instrumentally or intrinsically embraced, is irrelevant from a liberal point of view, which in the liberal state is also the legal point of view. As the German Constitutional Court held in its decision on Jehova’s Witnesses, all the liberal state can expect on the part of its members is external conformity with the law; it would violate the principle of liberal neutrality to prescribe peoples’ inner convictions. The often-raised question whether Islam is compatible with liberal democracy is thus “not legitimate” (Bielefeld 2006:153)—not to mention that the absence of an “institutionalized authority with binding interpretive competence” in Islam makes it impossible to say what “Islam” actually is. And, as Peter Sahlins (1989) demonstrated in altogether different context, instrumentally adopted identifications may eventually grow into intrinsically held identities.

Still, the distance between Islamic doctrine and the integration policies of European states, whose professed goal, to quote one example, is to transform “Muslims in Germany” into “German Muslims”, is considerable. This also seems to be the main
reason why multiculturalism has been in retreat throughout Western Europe in the past decade or so (see Joppke 2004). Reflecting on “liberal multiculturalism’s” recent difficulties, Will Kymlicka (2007:4-6) identified two conditions required for it to work: first, there has to be a “desecuritization” of state-minority relations, so that a minority is not perceived as a “fifth column” that undermines the geo-political integrity of the state; secondly, there has to be a “liberal-democratic consensus” on the part of the minority that assures the majority that the former, if granted minority rights, will not erect “islands of local tyranny” within the broader state. The absence of both conditions, Kymlicka concludes, “help(s) explain the partial retreat from multiculturalism in some countries in relation to recent Muslim immigrants, who are often seen as both disloyal and illiberal” (p.6).

Conversely, Muslim immigrants’ presumed disloyalty and illiberalism is the main backdrop to the rise of “civic integration” policies in Europe. Next to language learning, these policies require newcomers to familiarize themselves with the general principles and institutions of liberal democracy, and with their particular incarnation in the respective host country (for an overview, see Joppke 2007b). These policies have a “neo-liberal” market component, growing stronger under contemporary globalization, according to which newcomers are to become “self-sufficient” instead of being a costly burden of society;¹² but they also have a liberal identity component, which cannot be decoupled from the fact that the target population of civic integration is mostly Muslim. Earlier I interpreted civic integration as an instance of “repressive liberalism” (ibid.), in the relatively trivial sense that liberal goals are pursued with illiberal means (especially obliging newcomers to take language and civics classes). But an obligation is not ipso
facto repressive. Instead, one has to further consider whether the policy merely expects newcomers to be cognizant of liberal-democratic norms and to observe them in their external behavior, which is an entirely legitimate expectation; or whether there is a deeper, more questionable ambition that newcomers inwardly identify with these norms, plus deploying the state’s mighty police powers to establish and control these identities. The notion of “repressive liberalism” should be reserved to the latter program. While in reality the distinction between external behavior and internal conviction may be difficult to draw, as an analytical one it is crucially important: much as the liberal state might wish its members to identify with liberal norms, which cannot but be the goal of civic integration, it cannot legally force its members to do so—otherwise it would no longer be a liberal state.

To the degree that civic integration limits itself to a cognitive function and abstains from forcing identities on people, as it mostly does, it should not be called “repressive”. And where the line between both is crossed, the policy immediately raises eyebrows and stands to be corrected. A notorious example is the so-called _Gesprächsleitfaden_ (interview guidelines), issued by the Land government of Baden-Württemberg in early 2006 to help local naturalization officers determine whether citizenship applicants’ formal “acceptance” of the liberal-democratic order corresponded to their “real convictions”. The test was especially criticized, and quickly withdrawn, because it targeted only Muslim applicants for citizenship and thus was blatantly discriminatory (see Joppke 2007b:15). However, an equally questionable aspect of it was a thick understanding of liberal-democratic norms as something that one had not just to observe externally but to agree with internally. In this respect it was rightly denounced as
a “morality test” (*Gesinnungstest*). The idea behind it is that of the liberal state as one for a distinct kind of people, liberal people—which, of course, is a profoundly illiberal idea.

If it observes the distinction between following a norm and identifying with a norm, civic integration also cannot be called a return to older programs of assimilation, like the “Americanization” campaign of the early 20th century. Instead, it remains within the ambit of “integration”. The difference between both is that assimilation is transitive, whereas integration is intransitive (see Brubaker 2003:51; Albers 1994:989). In the former, immigrants are objects; in the latter they are subjects. Assimilation is caused by others; integration is self-integration. In this respect, policy can only provide incentives for choice, but choice has to be left to the individual. The outcome of this may well be, perhaps even should be, “assimilation”, if understood as “unintended consequence of myriad individual actions and choices in particular, social, cultural, economic, and political contexts” (Brubaker 2003:52).

In light of this, one might argue that civic integration is not as innocent as suggested above, because an obligation is the opposite of choice, which distinguishes “integration” from “assimilation”. However, what civic integration brings to the fore is that we are dealing with immigrants, whose admittance is in principle discretionary, which gives them a lesser status than ordinary citizens. Indeed, the novelty of civic integration is to tie integration with migration control functions, which so far had been kept strictly separate (Joppke 2007b:7-8). But the separation of both, which in retrospect must be considered the happy moment when we were “all multiculturalists” (Glazer 1997), was itself based on forgetfulness that one dealt with “immigrants” as persons with
lesser rights, at least as long as one acknowledges the right of states to have an immigration policy.

Having cleared civic integration of some of the charges often brought against it, one must realize that Muslim integration raises anew the old problem of the toleration of the intolerant. This is perhaps the problem of liberalism, and one that cannot be consistently resolved within its ambit. In Thomas Scanlon’s useful definition, “tolerance requires us to accept people and permit their practices even when we strongly disapprove of them,” which makes it a “puzzling” attitude that is an intermediate between “wholehearted acceptance” and “unrestrained opposition” (Scanlon 2003:187). Furthermore, Scanlon calls it a “risky policy with high stakes”, less for the intolerants’ threat to formal laws and institutions, than for their informal powers to “constantly redefine” the “nature of society” (ibid. 201). For John Rawls, toleration of the intolerant should go very far, for the sake of “equal citizenship”, but it should stop where a society’s “security” and “institutions of liberty” are put in danger (Rawls 1971:220). Headscarf laws and regulations may be understood as navigating the limits of toleration.

By the same token, one realizes the overbearing ambition of “multicultural recognition” (e.g., Parekh 2000), which goes beyond mere “toleration” and asks for “wholehearted acceptance” of behavior that is generally disapproved of. For Tariq Ramadan, Europe’s leading Muslim intellectual, Muslims expect “more than a simple discourse of integration”, which presumably is liberal toleration; instead, “real integration” would require “respect and mutual knowledge”, which is more akin to Scanlon’s “wholehearted acceptance” (Ramadan, quoted in Joppke 2007a:339). However, how could one expect a secular feminist to “wholeheartedly accept” the
Islamic veil that, its innumerable variations and possible modernity notwithstanding cannot but signify submission—to God, to men, or to both? All that can be reasonably expected is toleration of the veil, because—short of being forcibly re-educated (which is what multiculturalism boils down to for majority society)—how can one approve of something that one disapproves of? But there are limits of toleration, which inevitably vary according to time, place, and circumstance.

Confusingly, both France’s reigning in on the Islamic headscarf and Britain’s hands-off attitude toward it are within the ambit of liberalism. Liberalism is at heart “a project of toleration that began in Europe in the sixteenth century” (Gray 2000:1). But, as John Gray (ibid.) elaborates further, it is a project with two faces: in the older, Hobbesian face, liberalism is an institutional modus vivendi that allows many diverse ways of life to co-exist peacefully, without the presumption of overarching common values; in the other, Enlightenment-inspired, Lockean face, liberalism is a more ambitious, ethical project of finding a “rational consensus on values” and arriving at an “ideal form of life” within a “universal regime” (ibid., 2-3). Gray’s sympathy is for the Hobbesian version, which he takes to be the only viable response to the contemporary challenge of “deep diversity” (which consensus liberals like John Locke, who bickered about diversity within protestant Christianity, could not even remotely be aware of).

However, it is more reasonable to assume that liberalism requires both elements of laisser-faire and ethical consensus and that, if not checked by a modicum of the other, it is likely to self-destruct. I take this to be the message of the French and British headscarf controversies. Both countries represented in crystalline form the two faces of liberalism, modus vivendi in Britain and ethical consensus in France. Modus vivendi
liberalism is conducive to extreme forms of claims-making, such as head-to-toe veiled teachers, for which there is no built-in stopping point because of an inevitably weak sense of collective self. If Britain indeed is, as multiculturalists would like it, a “community of communities” (Parekh 2001), all cathectic energy is spent at lower level, so that the meta-community must forever remain in search of itself. Conversely, the ethical consensus liberalism of France, which stipulates abstract individuals devoid of all origin features, becomes indistinguishable from nationalism that threatens individual liberties and, with it, the heart of liberalism itself. Only Germany remained strangely outside the duopoly of liberalism, and the latter appeared here in the extraneous form of arcane court legalese.

The one plain language that appeared in its headscarf controversy was that of nationalism untouched by universalistic impulse, saying that “we” happen to be one thing, “Christian-Occidental”, and “they” another, “Muslim”, and never the twain shall meet.

Luckily, there were self-corrective forces at work, by means of which the ignored pole of liberalism (modus vivendi in France, rational consensus in Britain) or a denigrated liberalism as such (as in Germany) asserted itself. Accordingly, in France, laicity meant not just political republicanism but religious liberties that were mobilized by the legal system against headscarf exclusions. In Britain, where the political state largely stayed outside the fray, it was the legal system that corrected headscarf extremism, cautiously bringing to bear some collectivity-oriented values, though in the understated form of protecting third-party rights or ensuring efficient classroom communication. In Germany, the jurisdiction of the Constitutional Court stands for liberalism sans phrase, in its insistence that restrictiveness of religious wear would have to apply to all religions equally, and not just to Islam. It cannot but clash with the Land
governments’ crusade against Islam under the Christian-Occidental banner, yet with still undetermined outcome.

It was the central claim of this book that the Islamic headscarf functioned as a mirror of identity. Which are the identities reflected in it? The answer is: more than one and ever less national ones. Rogers Brubaker and Frederick Cooper (2000) rightly pointed out that the concept of identity is one of the most overused yet underspecified in the social sciences. I reluctantly gave in to using it for lack of a better word. But the mechanism addressed in these terms is unavoidable and of disarming simplicity: “Descriptions of the other… always imply self-descriptions” (Amir-Moazami 2007:17). This does not imply that descriptions of the self have to be by way of negating or excluding the other. A young Canadian political theorist (Abizadeh 2005) argued convincingly that collective identities cannot be modeled on individual identities; they may spring from an internal dialogue that needs no excluded other. All civic identities, from French Republicanism to German Constitutional Patriotism, work this way: they are generated more by time than by space, by a collectivity’s dialogue with its own past rather than demarcation from another collectivity. “Europe”, whose leaders refused to include a reference to Christianity into its proposed constitution and whose official admissions criteria do not know any geographic or ethno-cultural limitation, works much the same way—it requires a lot of negative energy to see in it a “closed Christian club”.

It is true, headscarf laws are part of a new emphasis in European states on nationalizing their immigrant populations, and in this they complement the new policies of civic integration. However, if one insists on calling this “nation-building”, it is a rather
light version of it. Nations, which had once inherited from its religious predecessors the aura of the sacred, have inevitably lost this sacred aura—at least in the western heartland of unifying Europe. Citizenship and nationhood once implied “transcendence” from one’s primordial origins. As Dominique Schnapper (2006) claims for the most “transcendent” nation of all, even in France there has been a withering of this notion, because the contemporary intervention state makes the “political community coincide with the real, concrete society” (p.192). The rise of diversity, which is now the master rhetoric of all Western states, France included, signifies the decline of political transcendence. The chronic individualization and diversification of life-styles, in combination with the omnivorous state interventionism of late modernity, fatally weakens the private-public distinction on which the transcendence of the nation once rested. This is the one structural opening for Muslims that will outlast all headscarf laws and civic integration policies. It may be phrased in terms of the question, “Why should Muslims shut up if Gays speak out?” (Tietze 2001:197).

In the 21st century, the internal diversity of society is considered legitimate and cannot be smashed. Thus it is no surprise that states find it ever more difficult to instill national particularism through their immigrant and minority integration policies. And the national self-definitions that inevitably frame such policies fall out essentially identical, as repetitions of the self-same creed of liberal democracy (see Joppke 2008). The sociologic of this has been crisply articulated by Georg Simmel (1971:257): “(T)he elements of a distinctive social circle are undifferentiated, and the elements of a circle that is not distinctive are differentiated.” With the help of this formula one can easily see why 21st century nation-building cannot be a replica of 19th century nation-building. The sharply
developed particularisms of 19th century nations rested on the (forced) sameness of the individuals and groups that constituted them, the military uniform being the foremost symbol of the sameness of parts and distinctness of the whole that marked the classic nation-state. By contrast, 21st century nation-building occurs in the context of highly pluralistic and individualized societies, where individual and group particularism is protected under the flag of “diversity”. In such setting, collective self-descriptions must be ever more general and abstract, to the point of becoming exchangeable, in order to encompass such diversity—this is why contemporary definitions of what it means to be French, British, German, etc. are all so similar.

This is good news for Muslims, as for all minorities, because narrowly ethnic and religious self-definitions are inevitably losing ground in pluralistic and differentiated societies, in favor of political self-definitions à l’américaine or française. As France and Britain are within the continuum of liberalism, which is the classic formula of accommodating diversity since Hobbesian days, Muslims are in different ways included in each: in the understated modus vivendi way in Britain, but also in the ethically more ambitious consensus way in France. I thus take issue, again, with Joan Scott’s (2007:135) assertion that the French headscarf ban showed that “one could not be both Muslim and French”, and that “assimilation was the only route to membership in the nation.” First, the concept of “assimilation” has long been dropped in France, if perhaps a touch later than elsewhere, in favor of the concept of “integration”, which leaves the ethical integrity of the individual intact (see Joppke 2007b:2). But, more importantly, to be French is not defined ethnically or religiously but politically, in terms of Republicanism—France is America’s “sister republic” (Higonnet 1988). So there cannot be a competition between
“Muslim” (which is either ethnic or religious or both) and “French” (which is always political). Both terms are simply located at different levels of abstraction and allegiance. Only if one defines “Muslim” expansively, in political terms, there can be a competition with “French”. But that would turn the tables against Muslims: if to be “Muslim” is to be member of a “global Muslim nation”, as Islamic doctrine indeed claims, qua Muslim a person cannot be French (or British or German etc.). Then the problem is not on the side of France that excludes but of Islam that is incompatible with liberalism, most notably the private-public distinction.

However, not just conceptually, but sociologically the claimed impossibility to “be both Muslim and French” (Scott 2007:135) is implausible. French Muslims have mostly adopted the idiom of laicity, cornerstone of French Republicanism, rather than staying aloof of it—a recent survey found 78 percent of French Muslims in support of laicity (see Perry 2006:21). This is because laicity is elastic, leaving space for nationalist and rights-oriented stances, and French Muslims have learned, to much effect until 2003, to mobilize the latter against the former. It is true, the headscarf law expresses a certain idea of France, but there are other ways of being French that can be only momentarily suppressed, including one that revolves around liberal laicity, which despite the victory of Republican laicity in 2003 has not thereby disappeared.

The contrast with Germany is instructive in this respect. This is a case where Muslims are really excluded from a certain “Christian-Occidental” self-definition of the state, simply because one cannot be Christian and Muslim at the same time. This is the identity that transpires in the headscarf laws of the catholic-conservative Länder. However, this is a legally contestable identity, which squarely contradicts the jurisdiction
of Germany’s highest court, the Bundesverfassungsgericht, from the 1995 Kruzifix decision to the very 2003 Ludin decision that triggered the headscarf laws. And at federal level no one has ever dared to define the German state as a Christian state. There is one brief reference to “God” in the preamble of the Basic Law, but only with respect to the special “responsibility” of Germans to “further world peace” after 1945. And this “God” is not limited to Christianity. Accordingly, it was not the federal government but the catholic-conservative Land governments of Bavaria and Baden-Württemberg which pushed for a reference to the Christian God in the EU constitution, however, unsuccessfully. At federal level, the identity and demeanor of the German state post-WW II has been thoroughly post-national, well-captured in Habermas’ notion of “constitutional patriotism”. This identity could never be legally tested in the German headscarf controversy, simply because the latter never involved the federal government, but only the regional Land governments. However, should the Constitutional Court retain its previous stance of religious equality in the still evolving German headscarf story, this is the identity that cannot but prevail over the Länder’s resurrection of an ethnic nationalism that does not dare to speak its name.

Finally, is there a “best practice” in dealing with the Islamic headscarf in Western Europe, which could serve as a model for all liberal states? Recently expanding from the business to the political lexicon and now one of the buzzwords of our time (especially in the jargon-plagued European Union), the notion of “best practice” depicts a flat world without history and institutional idiosyncrasy—the world as McDonald’s (though this is “worst practice” in its domain). There has been much reflection lately on best religious “governance” (Bader 2007), as if the slate of historically established state-church regimes
could ever be wiped clean. Certainly, with respect to the Islamic headscarf one cannot but admire the British solution of keeping the conflict local, and of neutralizing its political dimension by reducing the matter to one of effective communication as benchmark of intervention. But the fact that Britain is now routinely forced to deal with rather extremist claims, at considerable public expense, suggests that this cannot be the best of all religious governance worlds. Moreover, British Muslims, though pampered by a uniquely accommodating government, rank among the most dissatisfied and alienated Muslim minorities of Europe, which casts a long shadow over its liberal multiculturalism (Joppke 2009).

By contrast, France, which is usually attacked for its heavy line on the headscarf that was deemed to only alienate her Muslims and further fuel Islamic extremism, has seen nothing of this. When asked in a Pew Research Center survey in 2006 whether there is a “conflict between being a devout Muslim and living in a modern society”, only 28 percent of French Muslims thought there was one—but 47 percent of British Muslims thought so (Pew Research Center 2006:3). Similarly, French Muslims are notably less likely than British Muslims to view “people in western countries” as “selfish” (51 vs. 67 percent), “arrogant” (45 vs. 64 percent), “violent” (29 vs. 52 percent), “greedy” (31 vs. 63 percent), “immoral” (30 vs. 57 percent), and “fanatical” (26 vs. 44 percent) (ibid. 13). And an impressive 91 percent of French Muslims expressed “favorable opinions of Christians”, whereas only (but still) 71 percent of British Muslims did so (ibid. 11). Conversely, however, non-Muslims majorities in both countries hold similarly positive views of Muslim minorities (ibid. 16). One must conclude that in cultural respect French Muslims are much better integrated than British Muslims. Have French Muslims not
noticed that they are considered “lesser people” by the French majority (as argued by Scott 2007:45)?

In reality, France is the only country in Europe to confront its Muslim minority with an attitude, and it has paid off. Because it has not been an attitude of exclusion or racism, as some have argued, but of setting clear and equal terms of integration. Muslims have understood and accepted these terms. One forgets that Bretons (and innumerable other regional minorities) had to give up their patois to become French. No such sacrifice is expected of Muslims—they can practice their religion, as they should in a liberal state, on terms that nominally are the same for all religions, native Catholicism included.

Factual disadvantage that results from not having been there first is increasingly tackled by a proactive state. Under President Sarkozy, even laicity is no longer sacrosanct, and his vision of a “positive laicity”, in which religion is perceived not as “threat” but “asset” to the state, was strategically offered to audiences in Rome and Riyadh alike. In a punchy discussion how Europe might master the 21st century migrations, Randall Hansen (2007:16) prescribed the dual medicine of “free economy and Jacobin state”: “If Europe is to cope with a new century of immigration, it needs labour market policies à l’américaine and integration policies à la française.” He may exaggerate the stability of French Republicanism, as whose swan song the headscarf law might well be registered by future historians. But what France has more than other European countries is a “clear integration framework reflecting values they (the receiving countries, CJ) confidently hold” (p.16).

If one disregards the inevitable downsides of their respective liberalisms, the British and French extremes of dealing with the Islamic headscarf both seem to work in
their own terms. “Best practice” talk is pointless here. However, undoubtedly the “worst practice” in Western Europe’s dealings with the headscarf is the German stance to say “no” to Islam but “yes” to Christianity. More than telling its Muslims that they can never be “in”, it gives a silently racist majority the license to call them “out”. The recent Pew Research Center survey (2006:3) accordingly found that German Muslims’ views of their host society were generally moderate to positive—as argued earlier, they are not sufficiently part of German society to think anything else. What stood out were the majority’s staunchly negative views of the Muslim minority: 70 percent of surveyed Germans believe that there is a “conflict between being a devout Muslim and living in a modern society” (p.3), and even 78 percent hold Muslims to be “fanatical” (p.5). It would be absurd to claim that there is a causal connection between such views and the selective headscarf restrictionism of some (in fact, most) regional governments. But the message that ordinary Germans hear from some of their elected leaders is: our society is “Christian-Occidental”, and thus we may be partial, for Christianity and against Islam. In this optic, notably the German not the French, Muslims are “lesser people” indeed, at least with respect to the treatment that the state owes them. This is the position that stands to be corrected if liberalism is to prevail.

1 See, for instance, The Economist’s special report “Islam, America and Europe” (24 June 2006, pp.29-31).
2 Ruth O’Brien, in her introduction to Scott (2007:viii), attributes this view to “moderate Muslim groups”, but the remainder of her intro leaves little doubt that it is close to her own: “It (the French headscarf controversy)…reveals the prejudices that white Judeo-Christian Europeans harbor against a portion of their nation’s denizens…from their former colonies” (ix).
3 At the Parisian Institut Catholique, the so-called “Catho”.
Representative for many, UMP deputy Yves Bur, Assemblée nationale, 3rd session, 3 February 2004, p.1313.

For a strong argument that there are no “European” but only “Western” values, see Winkler (2007).

Organized Muslims have propagated this too, especially after 2001. For instance, the “Islamic Charter” of the Central Council of Muslims in Germany, issued in February 2002 to profess the compatibility of Islam with “German state and society”, starts with the claim that “Islam is the religion of peace” (“the” not “a”!), specifying that “‘Islam’ means both peace and submission.” This is etymologically wrong: the Arabic word islám means only submission to the will of God, there is no reference to “peace” in it (see Ammann 2004:84).


Zentralrat der Muslime in Deutschland, Islamische Charta (http://www.zentralrat.de/3035.php; last accessed 1 February 2008).


For the overrepresentation of immigrants in Western European welfare systems, see Koopmans (2005) and Hansen (2007).

This raises the question whether immigrants as non-citizens should be tolerated to the same length as citizens. While I will not further pursue this question here, it goes without saying that the limits to toleration addressed below should apply even more to immigrants than to fellow-citizens.

The Copenhagen Criteria, issued at the 1993 European Council summit in Copenhagen, mention only a functioning democracy, market economy, human rights protections, and implementation of European Community law as criteria of membership in the European Union.
