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Session I:

***Muslims in the Western Diaspora:
Legal Implications and Everyday Experiences***

THE RIGHT TO BE DIFFERENT
MUTUAL RESPECT, FREEDOM OF RELIGION, AND THEIR
RESPECTIVE LIMITS: MUSLIMS IN THE WESTERN DIASPORA
– LEGAL IMPLICATIONS AND EVERYDAY EXPERIENCES

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How carriers of multiple religious traditions can share social spaces creatively, rather than antagonistically, is the most challenging question of the time.

My working premise is that in Europe all religions – from long established ones, such as, Christianity, Judaism, or Islam, to more recent imports such as Hinduism, Buddhism and new religious movements - have developed and defined themselves by mutual reference. This relational mutual and self-definition was true even before labour immigration from Muslim countries following World War II was promoted by the host societies to help rebuild Europe. It was not distance, but proximity, that fostered religious boundaries in Europe and constructed non-believers into ‘deviants’ or ‘heretics’.

In fact, the unquestioned presupposition, that European identity and value-system was tightly knit to Christian religion, e.g., that religious plurality and diversity never had been part of European history has to be questioned – because, religious pluralism is the *conditio sine qua non* for co-existence of different religious groups living or immigrating here. One may pose the question of how far this idea is programmatically supported, and by whom and by what means.

Certainly, the significance of Christianity for Europe cannot be ignored. But this should not lead to overlooking the importance of other powerful or even not so powerful religious traditions. Tracing the religious path of Europe is not conceivable without recognising the mediating role played by Muslims in transmitting the philosophy and science of other civilisations. The great store of their literature and philosophy is unthinkable without the profound influence from, e.g., the Jewish religion and people. Their histories have by no means been the monolithic religio-cultural unity that some have made out of them, and their contemporary religious landscapes are certainly of increasing religious plurality.

Historically speaking, the rejection of pluralism and the idea of mutually exclusive religious options are based in processes of singularisation and norma-

tisation of religious dynamics, in the course of which other systems were marginalized and de-legitimized in the public perception. The extensive establishment of monotheistically inclined theologies led to a process of *regularisation*, in which alternative options were even hereticised by the respective ‘meta narrative’.¹ But the complex network of various religious attitudes, unfolding reciprocal relationship, cannot be characterised by singular closed systems, like the reductionist clash of civilizations hypothesis suggests. The dominant monocausal and monolinear concept of religious history has to be replaced by new historical and societal perspectives in the context of a global framework, giving voice to the varieties of religious actors. A “polyvocal” analysis of an open, plural(ist) field might open up new perspectives to do more justice to the historical and contemporary situation of incremental pluralisation in a global framework, which, one might add, is most important for peaceful co-existence.

Similarly, relations between Muslim minority and the majority in different European countries have been shaped by powerful stereotypes of otherness – of Muslim and non-Muslim. These images are now located in the heartland of Europe. They affect the paths towards integration pursued by different Muslim diasporas, which are informed by the specific political cultures of different European countries, the varied cultural traditions migrants have brought with them, and by their continuing ties to their home countries. The latest debate about the introduction of Islamic instruction and Islamic schools has generated public debate across Europe.

In the face of these developments there are a number of initiatives that try to reduce the pluralism of Muslims, among Muslims as well as in the various host societies, and consider the “other” in culturalist terms. A short glimpse into European history school-books reveals symptoms of a profound lack of dealing with Muslims and Jews alike in a respectful way. Jews and Muslims barely hold a place in these books, which also marginalize their influence upon history and development of the West. Thus, the very presence of Jews and Muslims is felt as a problem, as something non-Western rather than an integral part of Europe. When Jews or Muslims are mentioned in these books, it is mostly in connection with conflicts or problems, which they allegedly caused directly or indirectly. Especially Muslims have a very difficult stand. The explosive and supposedly aggressive expansion of Islam in the so-called Middle Ages is presented as the main historical point of contact between both entities. Both, Jewish and Muslim cultural elements are dealt with under the headings as “foreign”, “alien”

¹ With regard to the ethnological description of foreign religions, Mary Louise Pratt has coined the term of *normalising discourse*, which has the function “to fix the Other in a timeless present” (Mary Louise Pratt, “Scratches on the Face of the Country; or, What Mr. Barrow Saw in the Land of the Bushmen“, in: Henry Louis Gates Jr. (ed.): *Race, Writing, and Difference*, Chicago: University of Chicago Press 1985, pp. 135-162, here p. 139); cf. also Mary Louise Pratt, *Imperial Eyes: Travel Writing and Transculturation*, London: Routledge 1992, and Johannes Fabian, *Time and the Other: How Anthropology Makes Its Object*, New York: Columbia University Press 1983.

or “other cultures”. The development of Islam is seen as a threat to Christianity and as a conquering power opposing the Christian world. Islam was halted by European powers which in turn connoted a return to normality, to chasing the Muslims from the continent. When dealing with the twentieth century, at the time of political unrest, Muslims tend to appear either as immigrants needing integration, which again includes the fear from those who “cannot” be integrated, or as “fundamentalists” or “terrorists.” In both cases they must be dealt with severely, on the basis of rules which range from cooperation to coercion. Hence, the various traditions within Islam are disregarded, creating a distorted image of this ‘Other’. In this way, a cultural ‘otherness’ is imagined and – in a culturalist twist – is being overemphasized, which in turn invites simplification and ignorance.¹

In this situation, religious dialogue seems to be a proven vehicle for a change,² but how can a dialogue be conducted with a religion which is divided into multiple facets, which does not know one single authority and which, during its history, has created a multiplicity of forms which complement, imitate or contest each other within various hybrid or “pure” forms? ‘The Islam’ is as less a single entity, as it can be used as a common marker by which most Muslims would primarily identify themselves. Within the idiom of a dialogue with Islam and within Islam it becomes clear at least, that the partner for the dialogue is created: The ‘Other’ is nothing but a creation from one’s own archive. Thus, the question arises of how mechanisms are vital in constructing a projection or an autosuggestion of the Muslim *Other*, and how Muslims react or how they construct counter – projections.³

Islam is diverse, everywhere in the world, and particularly in Europe. In a post-colonial world, Muslims made good and cheap labour, which was used to rebuild war-torn Europe in 1960s:

¹ See Lisa Kaul-Seidman, Jorgen S. Nielsen & Markus Vinzent, *Europäische Identität und kultureller Pluralismus: Judentum, Christentum und Islam in europäischen Lehrplänen. Empfehlungen für die Praxis*. Bad Homburg: Herbert-Quandt Stiftung 2003; Lisa Kaul-Seidman, Jorgen S. Nielsen & Markus Vinzent, *European Identity and cultural pluralism: Judaism, Christianity and Islam in European curricula. Supplement: Country reports*. Bad Homburg: Herbert-Quandt Stiftung 2003; similarly Gerdien Jonker: „Sind Kreuzzüge noch aktuell? Präsentation der bisherigen Untersuchung“, in: *Workshop: „Sind Kreuzzüge noch aktuell?“ Eine kritische Hinterfragung der Information über „Orient“, „Islam“ und „Muslime“ in deutschen und europäischen Geschichts- und Geographiebüchern*, Georg-Eckardt Institut, Braunschweig, 3.-4.11.2005.

² See also Jamal Malik, „Islamisch-christlicher Dialog“, in: P. Eicher (ed.), *Neues Handbuch theologischer Grundbegriffe*, Vol. 2, München: Kösel 2005, pp. 235-242.

³ On this whole issue of discourses on dialogue with Islam, a research project is being conducted at the Chair of Islamic Studies, University of Erfurt in 2005/06. The project „Dialogue(s) with Islam(s) in European and South-Asian Perspective” is supported by the German Academic Exchange Service (Delhi Branch) and is conceived as well as coordinated by Dr. Michael Dusche.

During the first oil crisis at the beginning of the seventies, the wave slowed down somewhat, but the workers themselves stayed on, and tended to invite their families from back home. Soon after that, political asylum seekers followed. Each European nation implemented its own set of rules and legislative measures to get hold of the situation. Eventually, Islam started to become a public issue followed by a restrictive immigration policy. On the other side, second and third generation immigrants showed a desire to articulate themselves and their situation more vocally. The Rushdie-affair and the debate about the headscarf made headlines and brought Islam definitely into the limelight. During this time Muslims were strictly organized on ethnic and national lines, the mosques being a centre for the memorization of ethnicity and soon became an institution endowed with migrant-specific features.

During the nineties, further waves of immigration brought more and more Muslims to Europe. The end of the Soviet Union, periodically rising tensions in the Middle East, and the war in the Balkans did their part to keep the topic of Muslims living in Europe in the headlines and created fear and uncertainty.

So far the European states did not manage to create such a Pan-European immigration policy in a time when the European integration seems to undermine the traditional nation-states. This is particularly the case when actors of this religion are ethnically, theologically and nationally diverse, but nonetheless linked to a transnational – albeit virtual – Muslim public sphere. The images thus evolved affect the paths towards integration pursued by Muslim diasporas.

There are app. 20 million Western European diaspora Muslims, making up to 3-4% of all residents in these countries – most of them being not actively practicing Muslims.¹ According to some estimates the number of Muslims in the extended European Union will double by 2015. Muslims, like other minority members, are subjected to discrimination in areas like employment, housing and access to service² and in many countries they are dealt with as a matter of internal security. After 9/11 discriminatory tendencies have increased,³ giving rise to a collective suspicion about Muslims. Many speak of “Muslim parallel societies” for which Muslims are made responsible alone. The failed integration process is however caused by the host societies who have so far done little to integrate the labour migrants whom they have called. But then, which society likes its minorities?

¹ 4-5 million Muslims live in France, over 3 million in Germany, more than 1.5 million in the United Kingdom, about 1 million in Spain and close to 1 million in Italy and the Netherlands respectively, in Belgium 400,000-500,000, Greece up to 400,000, Austria more than 300,000, Sweden also more than 300,000, and Denmark up to 180,000.

² See the detailed report International Helsinki Federation for Human Rights (IHF): *Intolerance and Discrimination against Muslims in the EU. Developments since September 11, March 2005*.

³ Though according to a recent inquiry, 95% Germans do not feel disturbed if Muslims are living in their neighbourhood. See Konrad Adenauer Foundation (ed.), *Was halten die Deutschen vom Islam? Ergebnisse einer Umfrage*, Sankt Augustin 05/2003.

Hence, the main debates are about the degree of liberty and freedom the various communities can live in, as well as about the borders of cultural and religious differentiation with which Muslims have to deal with in an openly secular Europe. Specifically, the debates are about the recognition of Muslim communities as organizations of public interest, about the possibilities and modalities of Islamic religious education in the framework of a national educational curriculum, and about public signs of membership, such as the wearing of a headscarf or the calls to prayer, burial sites and mosques.¹

The latter has been subject to various debates and court judgements mostly informed by the notion that minarets are incompatible with “the cultural and architectural landscape”. Similarly, the microphone-call for prayer can only be stopped with arguments such as to impair the health of a third party by exceeding the noise level or being dangerous to the public traffic. As far as Islamic ritual burial is concerned, sanitation regulations and lack of space are the main hurdles.

The use of headscarves has become the subject of increasing controversy in the European Union. The headscarf’s compatibility with the principle of separation of church and state is questioned, and the right to freedom of religion outweighed against the rights of pupils who are obliged to go to school and can not avoid looking at the headscarf. Apart from being a “conspicuous” religious symbol in public schools the headscarf has become fashionable and it expresses the desire for difference.

Similarly, religious education has generated public debate across Europe. Basically, states are obliged to respect religious education but are not obliged to organize religious education in public schools. Various governments in Europe have responded to this issue and have even conceded these demands of Muslim communities in a gradual manner, according to their respective political cultures. In some countries, the costs for these classes are born by the state, while the official representative bodies of the country’s Muslim communities are responsible for the content of the instruction. In Germany for example religious education is protected by law, and the organization of such classes is currently under way and welcomed by many Muslim groups as a first step toward effective implementation of existing legal provisions. The problems are however grave since this issue has become a battle ground for those who want to hold agency over Islam, such as some national organizations based in the home-countries. Moreover, in the process of domestication of religion the state might end up with unconstitutional interference by preferring one Muslim group over the other.

¹ See Thomas Schmitt: *Moscheen in Deutschland. Konflikte um ihre Errichtung und Nutzung*, Flensburg: Deutsche Akademie für Landeskunde 2003; Louise Kubelka & Marcus Schian: *Causa Kopftuch. Ein europäischer Vergleich*, Berlin: Europa-Kontakt 2004. Cf. also the report of the International Helsinki Federation for Human Rights (IHF): *Intolerance and Discrimination against Muslims in the EU. Developments since September 11, March 2005*: http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4029

In other countries, religions are taught from a non-denominational perspective, the emphasis being on the majority religion of the host country. At the same time support is granted to an increasing number of independent religious schools, including Muslim schools (Sweden, Denmark, UK, the Netherlands). However, only small numbers of Muslim students attend Muslim schools.

Privately run faith-based schools constitute another field of discourse. This instruction is linked to imported Imams having little knowledge of the host societies' values and customs. In some cases the imams preach non-compliance with values fundamentally important in societies of the European Union, and thus having a detrimental impact on the integration of pupils into wider society. Some have given statements encouraging hatred or violence among Muslims. Therefore, training of local Imams and organized instruction in Islam at public schools are considered important to help reduce the impact of Quran schools housed in mosques. A number of universities is involved in this project.¹

Finally, the issue of halal food made quite some headline and Muslims still have to face opposition, such as from animal welfare organizations.

In these fields Muslim communities in Europe have made headway: they managed to demonstrate a growing potential of self-awareness in the national-religious framework of Europe. This intra-Muslim Eurocentric discourse took two centuries to emerge. It can be exemplified in different areas, Islamic Minority Law being one of them. This notion of law renders obsolete the idea of an abode of Islam (*dar al-islam*) and a territory not under Muslim sovereignty (*dar al-harb*), which had rationalised the myth of return of migrants to Muslim countries.² At the same time it stresses the minority status of Muslims making them into a perennial minority. The notorious call for Islamic identity in these diasporic Muslim deliberations may hark back to the refusal of the majority of migrants to strictly follow the sharia in the diaspora.

Meanwhile, vernacular forms of Islam are emerging, when young Muslims increasingly perceive their religion in terms of personal convictions rather than in terms of family and tradition. This *protestantisation* of Islam needs also to reject the notion that modernity can be monopolized. It also may engage critically with the holy texts, and concede that any identification as Muslim would lead via a hermeneutical approach to these texts. At the same time, membership of Islam cannot continue to be the main requirement for accession to Paradise and the experience of the Grace of God. In fact, the new media facilitate and enhance transnational Islam undermining the voices of traditional religious

¹ See Jamal Malik: "Ausbildung und Rolle der Imane in der Moschee", in: <http://www.anawati-stiftung.de/seiten/100jahre-11-19.pdf> (21. Nov. 2005)

² Especially since this post-Muhammadan duality has long since ceased to be a working legal construction for Islamic jurisprudence. However, it does influence the neo-Islamic discourse. According to this discourse, Islam would refuse the legitimacy of political authority due to its focus on a universal, spiritual equality. It would thus usurp the ability of the state to establish itself as a strong entity. According to this concept, Islam would not allow for the existence of a civil society within its own framework.

authorities and giving space to a variety of new authorities contesting with each-other.¹

Other collective attempts to offer alternatives for integration appear in form of models of representation. They mirror specific forms of national politics concerning religion,² and they reflected a tendency towards ecclesiatisation, and thus centralization. But this sort of centralization does not imply a parallel political leadership among Muslims per se. Austria, Belgium, France, and Spain installed such public institutions of representation, with more or less success, according to their own legal traditions and orders. Great Britain and Germany on the other hand have private organizations, which represent the Muslim minorities in their issues. None of these institutions can claim to speak or act for all Muslims. More often, they only represent a faithful, organized minority of Muslims. However, this should not hide the fact that these minorities often play a vital role in national debates about the direction of Islam.

Apart from these integrationist attempts one can find isolationist, radicalised approaches. But this radicalism is not the result of an inherent immovability within the cultures of Muslim immigrants. Instead, it seems to be an outcome of socio-economic marginalization when people start uniting around the perceived cause of their discrimination, e.g. their religious affiliation.

It is in this context that an attempt is made to create a pure, untainted religion outside the confines of traditional and Western cultures. Biographically, this can be proven among the followers of radical groups or individuals, since hardly one of them is close to traditional Islam. Indeed, most of the members of these organizations tend to keep away from traditionalist structures and centres of Islam, and do not participate in the discourse and debates of these Muslim centres.

These individuals tend to have suffered isolation in their religion, have a tendency to be autodidacts, suffer from generational tensions, and they reject any sort of authority or family ties. Added to this are often failed processes of socialization within their religious community, as well as within ethnic groups.

¹ See Dale F. Eickelman & Jon W. Anderson (eds.), *New Media in the Muslim World: The Emerging Public Sphere*, Bloomington: Indiana University Press, 1999; also Gary Bunt, *Virtually Islamic: Computer-Mediated Communication and Cyber-Islamic Environments*, Cardiff: University of Wales Press, 2000; Karim, Karim H. (ed.), *The Media of Diaspora*, London: Routledge, 2003; Naomi Sakr, "Testing Time for al-Jazeera", in: *ISIM Newsletter* 9/02, p. 21; Ahmad Kamel, "Al-Jazeera. An Insider's view", in: *ISIM Newsletter* 9/02, p. 20; Ermete Mariani, "Hadith On-line. Writing Islamic Tradition", in: *ISIM Newsletter* 9/02, p. 24; Martin Brückner, "IslamiCity. Creating an Islamic Cybersociety", in: *ISIM Newsletter* 8/01, p. 17; Miriam Gazzah, "Maroc-Hop. Music and Youth Identities", in: *ISIM Review* 16/05, pp. 6f.

² See Werner Schiffauer, *Fremde in der Stadt. Zehn Essays über Kultur und Differenz*, Frankfurt/M.: Suhrkamp 1997, pp. 36-48, and Matthias König, "Islamische Minderheiten in Westeuropa. Eine Herausforderung des säkularen Rechtsstaats?", in: Thorsten Gerald Schneiders & Lamya Kaddor (eds.), *Muslime im Rechtsstaat*, Münster: LIT 2005, pp.33-46.

Furthermore, Islam is converted from a lived religion into an imaginary, non-historical, abstract model. There is no community with grown roots in the resident society, by which it could counteract these tendencies. Instead, the existence of a virtual community is made dependant on how the faithful acts, on their public appearance. Hence, blasphemy and apostasy will be immediately sanctioned with all strength. Religion ceases to be a geographic reality and instead sets its borders elsewhere: in the heads of the people. These new borders work with discourses, and unlike geographic borders, which can be fixed, these borders are always negotiable because they are fictional and unstable. This radical discourse of difference and de-culturalist and *detrterritorialised* Islam appeals to Diaspora youth who are disadvantaged in terms of the cultural capital of adult immigrants.¹ Thus it seems to be logical that vociferous and charismatic leaders often come out of this context with intellectual background.

These are some of the everyday experiences and legal implications faced by Muslims in Europe. For sure, the foundations for Muslim integrationist and isolationist tendencies can be found in Muslim texts and sources. It is banal to point out that these positions mirror social realities, dressed up in religious debate. However, considering that the same arguments once were formulated in political terms, but now appear in the guise of culturalism and religion, one can clearly discern a confessionalisation of political discourse. The vocabulary has changed, the basic problems, however, seem to be the same.

To come to an end, it is not enough to conceive and construct the cultural 'other' on the basis of a selection of texts without trying to understand the respective socio-political embeddedness. The temporal and spatial context of these forms of cultural articulations is central to any understanding of the other. Moreover, one may reconsider concepts of identity that focus on the importance of boundaries which draw a sharp line between us and them. But is exclusion central to the creation of a community? The recognition of the idea of plural or multiple identities might be a chance to enable to appreciate social constructions of the self and the other beyond limited imaginary and imagined boundaries, simply because plural identities mean ambivalence. And does not a dialogic principle constitute identity? Can not the other be perceived as part of the self, and thus rigid dichotomies blurred to replace singular essentialist discourses?²

I concede that multi-religious and multi-confessional dialogue in Europe requires the acceptance of the others' religious convictions, the refraining from ones own dogmatic ideals of non-failure, and the acceptance of democratic system. There is need to address how, in terms of concrete organisational and institutional arrangements, structures might be evolved that enable people who

¹ Compare Marcia Hermansen, "How to Put the Genie back in the Bottle: 'Identity Islam' and Muslim Youth Cultures in North America" in: Omid Safi (ed.): *Progressive Muslims*, Oxford: One World 2003.

² See also the articles in Jamal Malik and Helmut Reifeld (eds.), *Religious Pluralism in South Asia and Europe*, New Delhi: Oxford UP 2004.

live by different and sometimes radically conflicting values and expressions of ultimate concern, to co-exist and, if possible, not only to co-exist, but also to co-operate. In this sense, religious pluralism implies active engagement with plurality, it requires participation; and it is more than mere tolerance, because of its inherent active attempt to understand each other. And, it does not displace or eliminate deep religious commitments, but it is the encounter of commitments.