

SCIENTIFIC REPORT

ESF Exploratory Workshop EW08-288

When East meets West – Islam, Human Rights and Secular Values

Istanbul (Turkey), 6-8 November 2009

Convened by:

Peter Cumper, Murat Tumay

1. Executive Summary

Objectives of the Workshop

The main aim of the workshop was to make a contribution to the ongoing debate about the challenge of reconciling Islamic and secular values. It brought together leading scholars from all over Europe, who considered whether there were any lessons for Turkey from Europe – or for Europe from Turkey – in relation to the accommodation of Islamic beliefs and secular values in the 21st century.

In considering the relationship between Islamic and secular values in post ‘9/11’ Europe, the conference had experts from twelve different European nations. With these experts representing a varied range of traditions (eg., academic and non-governmental) and coming from a variety of different backgrounds, (eg., Law, Theology, Islamic Studies, Philosophy), a key aim of the conference was to tackle the issue of Islam, human rights and secular values from as broad a perspective as possible.

The organizers, mindful of the emotive nature of the issues that would be discussed, and the differences that exist between many commentators in the East and the West on such issues, also had the aim of encouraging collaboration between individual participants, both through formal (ie., the workshop sessions) and less formal (ie., meal and coffee breaks and the tour of Istanbul) elements of the conference.

Organisation of the Workshop

The workshop was held at the Akgun Hotel, Istanbul, Turkey from 6th November (Friday) until 8th November (Sunday) 2009. On the Friday evening the participants arrived at the Hotel in the late afternoon. Official registration then followed. Copies of the academic papers had already been emailed to all delegates, but at registration there was distribution of conference packs to all of the delegates. Following registration, conference delegates met as a group for dinner.

On the Saturday morning (7th November), the conference started (at 9am) in the hotel’s main conference suite. Co-Convenor, Mr Peter Cumper, formally welcomed all of the guests, before the ESF’s representative, Professor Dilek Barlas, gave a short talk outlining the work of the ESF. Upon completion of her talk, the workshop sessions started, as planned, at 9.30am.

As can be seen from the programme (attached), the Workshop's discussions on the Saturday were based around three different themes. First, Human Rights, Sharia and Islam (Saturday am); second, Europe, Citizenship and Islam (early Saturday afternoon); and third, Europe's institutions and the protection of religion and secularism in the 21st century (late Saturday afternoon).

The Saturday workshop accommodated the submission of 7 papers in different sessions. After 45 minutes given over to the presentation of every paper, 15 minutes were devoted to questions to the speaker and discussion of what they had said. The Session Chairs were responsible for handling questions from the floor. With all of the speakers finishing their presentations well within 45 minutes, there were some frank and lively discussions between the delegates.

The Sunday morning workshop was specifically a plenary session, which aimed to look to the future, by having panel discussions on the best way to move forward, and by working towards the establishment of collaborative research activities. The workshop ended on 11.30 am and the discussions continued (albeit informally) with a number of delegates going on an organized tour of Istanbul.

Relevance of the topic

One of the most controversial and emotive issues today in Europe is the way in which national legal systems deal with matters of cultural diversity. From Islamic minarets in Switzerland to religious headscarves in France, the relationship between secularism and Islam in the public sphere is controversial. Yet, within Europe, it is hard to think of a nation where such issues generate more controversy than in Turkey. For example, in Turkey, the secular constitution of that nation imposes curbs on the display of the Islamic headscarf, in spite of the fact that more than 95 per cent of the country is Muslim. What is more, approximately 10 years ago the highest Court in Turkey dissolved a lawfully elected political party (which was at the time governing the country), on the basis that this party's constitution and political agenda was incompatible with the nation's secular constitution. Thus, given that a key aim of the conference was to consider the challenges of reconciling secular international human rights norms with religious values in general and the tenets of Islam in particular, Turkey was a highly appropriate venue.

Scientific Impact

The aim of the conference was to bring people together from many different parts of Europe to consider the important issue of the relationship between Islam and international human rights law. With participating experts coming from a broad variety of cultures, disciplines and perspectives, relationships were established and matters were discussed which might not ordinarily be the case at a 'single discipline' conference. A number of the debates were heated, with some members of the group clearly disagreeing with certain views that were being expressed. However, there was unanimity that the subject matter of the conference was not merely topical and important, but that such workshops were necessary for the representatives of Europe's different traditions (both faith and non-faith) to engage in dialogue with each other for the purpose of building bridges between East and West.

Outcomes

The outcomes were as follows. First, contact was established between people with an interest in the field of human rights and Islam who would not normally have an opportunity to meet with one another, because the delegates attending the workshop came from a wide range of academic disciplines and many different countries. Secondly, a number of delegates expressed an interest in bidding for funding to organise future conferences to take forward many of the ideas discussed in Istanbul. Thirdly, given the rigorous debates that took place during the conference, it was agreed to continue these debates on the relationship between Islam and international human rights norms, on the internet, particularly making use of web based discussion forums. Fourthly, a summary of conference proceedings will be published in *HSF-HR*, a Polish human rights journal, which is widely read in Central and Eastern Europe, and which is published by the University of Silesia, in Poland. Finally, an edited book is planned, which will be based on the papers submitted at the workshop. The co-convenor of the workshop, Dr Murat Tumay, and workshop participant, Prof Ahmet Yıldız, have agreed to act as co-editors of the edited volume, which will be published in Turkey. Dr Tumay is planning to invite other workshop participants to contribute to this book and he anticipates that this book will be published sometime in 2011.

2. Scientific Content of the Event

Presentation 1 “The main hurdles to compatibility of Sharia and Human Rights”

Chaired by **Prof Silvio Ferrari** (University of Milan, Italy) and presented by **Prof Maurits Berger** (Leiden University, the Netherlands).

Prof Maurits Berger examined the relationship between Sharia and Human Rights. He rejected the ‘conflict of civilisations’ thesis, which suggests that the two are incompatible. In this regard, he examined the case of *Refah Partisi*, in which the European Court of Human Rights dissolved a lawfully elected political party in Turkey, on the basis that its support for Sharia law meant that this party constituted a threat to the Turkish secular constitution. He observed that the Court went beyond merely deciding this case, but that it made a number of statements to the effect that Sharia law is not compatible with the rights and values protected by the European Convention on Human Rights (1950). His main criticism of the Court in this regard was that the Court failed to consider what is meant by ‘Sharia’, and merely assumed that this term embraced those Islamists in *Refah* who advocated bloody jihad or revolution. On the contrary, Prof Berger argued that definitions of Sharia are much more varied and complex, a point which he said the European Court had failed to note.

Prof Berger also discussed the difficult and often controversial issue of balancing contemporary ‘secular’ human rights norms and rules in Islam which can not be changed as they are ‘divine’ rules. He noted that attempts have been made by some Islamic nations to draft an Islamic Declaration of Rights, and pointed out that in certain areas, such as the rights of women, there remain problems with reconciling ‘Islamic’ and ‘secular’ human rights norms.

Presentation 2

“On-Sharia-based arguments developed, or deployed, by Norwegian Muslims in defence of Human Rights and a Secular legal and political order.”

Chaired by **Prof Rik Torfs** (Leuven University, Belgium) and presented by **Prof Tore Lindholm** (the University of Oslo, Norway).

Prof Lindholm argued that Norwegian Muslims today tend to *assume* that human rights norms have an ‘Islamic’ legitimacy and are compatible with Sharia. They thus seem to assume that core liberal ideals, which are more or less institutionalized and practiced in

contemporary Norway, are acceptable normative frameworks for accommodating Muslims in Norway. In other words, ‘acceptable’ from the vantage point of Sharia.

He pointed out that Muslims in Norway, being an internally diverse religious minority, largely consist of recent (second generation) “immigrants”. That Norway’s Muslims are often seriously and justifiably critical of specific political, economic and social circumstances in Norway. For example, Norwegian Muslims are horrified by Islamophobic attitudes at times nourished by Norway’s “natives”. Thus, Muslim voices in Norway may, for instance, complain about matters such direct discrimination, indirect discrimination, patterns of institutional discrimination, and stereotypical perceptions of the role of Islam and Muslims in European history.

In conclusion, Prof Lindholm stated that when participating in public arguments, discourse, and negotiations, Norwegian Muslims, though mostly mindful of the norms of public reason, are (typically) not alienated from their Islamic commitments or their religiously mandatory adherence to the directives of Sharia.

Presentation 3

“Turkey, Secularism, Shari’a and Women’s Rights.”

Chaired by **Prof Eugenia Relano Pastor** (Complutense University of Madrid, Spain) and presented by **Dr Alev Erkilet** (Istanbul Metropolitan Municipality, Istanbul, Turkey).

In her presentation Dr Alev Erkilet focused on the headscarf ban from the perspective of social exclusion. She suggested that the rationale for such curbs on religious dress in Turkey is a fear that Turkey might embrace a form of Islam that would lead it to becoming a nation such as Iran or Afghanistan. However, rather than such grounds being justified, the rhetoric developed through curbs on the veil have become an excuse for global wars (eg., Iraq, Afghanistan) and it has also led to human rights violations at the national scale (ie., in Turkey).

Dr Erkilet argued that the matter which should be primarily emphasized is the relationship between the headscarf and ‘public space’, and that because of its nature, the headscarf (or veil) is a *public phenomenon*. For example, women typically use a veil to go out in public, and not to remain in her private space with family. The discourse against the existence of headscarf in public space means that total prohibitions on the headscarf must be seen as curbs on the rights of women to be in public locations or in places offering public services.

Dr Erkilet concluded that further respect for human rights, the reduction of poverty and equality between all people is needed. In this sense, inclusion is the final product of the realization of others. She argued that the headscarf ban is a form of degrading treatment, which leads to women being unemployed, poor, dependent on others, and ultimately deprived of social protection. It thus marginalizes women, is ultimately out of place in the EU and is inconsistent with UN principles upholding the human rights of women.

Presentation 4

“Islam in the Public Sphere”

Chaired by **Prof Marjolein van den Brink** (Utrecht University, the Netherlands) and presented **Prof Gerhard Robbers** (the University of Trier, Germany).

Prof Robbers expressed the view that the challenge posed by the accommodation of Islam in public life is a rather new phenomenon in most European countries. In this regard he distinguished between states such as Austria, where a substantial Muslim minority has been present since the times of the Turkish expansion into central Europe in the 15th-17th centuries, and other countries, such as Germany, where the presence of Muslims in significant numbers has been a completely new phenomenon.

Prof Robbers argued that religious communities in Germany form an integral part of the general political system. On the whole, they are accepted as being a factor in the democratic process, and they have accepted democracy as the best option to structure the political system. In election campaigns, religious communities usually do not take sides for specific political parties or candidates; they do, however, call for active participation in the elections.

In general, people in Germany are free to wear religious clothing or symbols. The headscarf as a religious garment is not prohibited, nor is the burqa. Students in public schools and universities are free to wear the headscarf or other religious symbols. However, covering of the whole face in school is not permitted for educational reasons. An employer must accept the right of a Muslim woman employee working, for example, as a sales person in a perfume shop, to wear the Muslim headscarf. Following intense public debate, a number of Länder (Baden-Württemberg, Hessen, Bremen, Berlin, Lower Saxony, Bavaria, Saarland, North Rhine-Westphalia) have introduced specific laws to prohibit teachers and other public officials from wearing specific religious symbols.

Finally, Prof Robbers stated that Muslim associations have begun to play a role in German politics, the most important of which is the Islam Conference, created by the Federal Minister of the Interior to discuss and develop the integration of Muslims into German society.

Presentation 5

“Church-State relations and Islam”

Chaired by **Dr Michaela Moravcikova** (Director of the Institute for State-Church Relations, Slovakia) and presented by **Prof Marco Ventura** (University of Siena, Italy).

In his presentation Prof Ventura looked at the link between Islam and the transformation of relationships between churches and states in Europe. Contemporary Europe is facing two simultaneous changes. The transformation of European society into a multicultural society is the first. The transformation of the interaction between states and churches, between religion, society and the law, is the second. These two changes are tightly interlinked and Islam is quintessential to both. He argued that, with regard to the relationships between churches and states, the issue is twofold. Firstly, Islam as a religious law challenges the understanding of the law of the land as the predominant law. Secondly, Islam as a universal (international, global) bond challenges the understanding of the law of the land as the domestic law.

Prof Ventura looked at the threefold role played by Islam in the general picture. First of all, Islam amplifies the tensions and the contradictions already existing in the system. Secondly, Islam highlights the tensions and contradictions through a sort of scapegoat effect. For secularists, Islam is the worst example of religious backwardness and bigotry. Islam enables secularists not to look at their own bigotry. For the pro-religion front, Islam is the worst example of an irrational, aggressive, pre-modern religion. Due to the ‘scapegoating’ of Islam, Christians, Jews and all other believers are enabled to avoid looking at their own irrationality and uneasiness with modernity. The third kind of impact Islam is likely to have is the modification of social and legal practice, with issues pertaining to Islam having religious as well as political consequences.

Prof Ventura concluded that all over Europe, governments are tempted to enact restrictions or actually do enact restrictions specifically aimed at appeasing or controlling Muslims. He noted that formal or informal Islamic courts, supranational European courts, national courts, will be crucial actors, “rendering unto Islam that which is Islam’s.”

Presentation 6

“Laicite as an issue in the process of Turkey’s accession to EU”

Chaired by **Prof Haluk Songur** (Trinity University College, Carmarthen, Wales, UK) and presented by **Prof Ahmet Yıldız** (Director, Research Centre, Turkish Grand National Assembly, Ankara, Turkey).

In his presentation Prof Yildiz explored the laicite (secularism) issue relevant to Turkish accession to the EU. He argued that conceiving Turkish modernization in the form of westernization, as a delicately engineered process designed for the full secularization of Turkish polity, is a major challenge for Turkish democracy. Prof Yildiz argued that, to some, the increasing visibility of Islamic symbols and practices in Turkey is a corollary of the country’s current European Union (EU) reform process, rather than a sign of Turkey’s deviation from its political and societal modernization process. For ‘hard-line secularists’, however, all the tokens of Islamic visibility, from the headscarf to Quranic courses and religiously inspired political organizations, are the indicators of a risk of the Islamization of the state, a situation that justifies all ‘non-democratic interventions’, including the military ones.

Prof Yildiz stated that, from the EU’s perspective, democracy and secularism are intertwined and cannot be separated. Thus, the safeguarding of secularism in fact means to safeguard democracy, that is, if you protect democracy, this means the need to protect secularism, and that to conceive of secularism without democracy is an anachronism. However, he argued that an authoritarian system of secularism is by definition troublesome, because secularism is less about state imposition of secular values and more about freedom and plurality for citizens in terms of their belief systems, convictions and religious practices. He concluded that the guardian of secularism is not the military in democratic societies and accordingly, the role of military in this regard has to be curbed. The accession process, with the acceptance of some ECHR decisions regarding the headscarf, religious education and religiously inspired political parties, is a clear testimony to this effect.

Presentation 7 “The ‘Islamic’ cases in the Court of Strasbourg”

Chaired by **Prof Andrzej Bisztyga** (University of Silesia, Poland) and presented by **Prof Javier Martinez Torron** (Complutense University, Madrid, Spain).

Prof Torron in his presentation focused on the way in which the European Court of Human Rights (ECtHR) has approached the issue of Islam in interpreting Article 9 of the European Convention on Human Rights (1950), which guarantees the principle of thought, conscience and belief. He provided an overview of the ‘Islamic cases’ decided by the ECtHR in order to draw some general conclusions. In the last decade, the ECtHR has decided a number of cases dealing with such important issues as religious autonomy, religious education in public schools and conflicts between freedom of expression and freedom of religion.

In a number of cases, Islam has received from the ECtHR the same treatment as any other religion. There are, however, some exceptions to the equality of treatment of all religions by the ECtHR. One notable illustration of this is Islam in Turkey. In this regard he argued that in some cases the European Court has been too heavily influenced by the argument of the defence of the secular State and the rule of law against the dangerous stream of Muslim extremism.

In conclusion, Prof Torron argued that, in any event, when we try to identify the main coordinates of the ECtHR’s case law with particular reference to restrictions imposed by national laws on the wearing of the Islamic headscarf, it is significant that, until now, almost all cases in which the Court has justified those restrictions, in Turkey or in France, refer to the school environment. He asked, what can we extrapolate from these judicial principles or should we rather understand that the Court’s endorsement of this notion of secularism is applicable exclusively to the realm of public education? He suggests that it is still too soon to know, but that for now, the Court’s approach has been heavily criticised by jurists from many countries and from a range of diverse ideological positions.

3. Assessment of the Results, Contribution to the future Direction of the field

At first sight the impact of this Workshop would appear to be relatively modest. After all, there were some major disagreements between delegates as to the very definition of the term, ‘human rights’. For some, this term is synonymous with Western secularism, and, as such, those holding this view tended to regard international human rights norms as potentially encroaching on their religious freedom. For others, however, international human rights norms are the best way of protecting in a diverse world, the rights, not just of religious believers, but also those of no faith, as well as other traditionally ‘vulnerable’ minorities, such as women and children. These definitional disagreements tended (at least to some extent) to resurface in every session, including the Sunday morning plenary session, when the Workshop organisers had hoped that the discussion might focus on devising practical ways of moving forward.

On closer inspection, however, notwithstanding these considerations, the Workshop did make a potentially significant contribution to the field of studying the relationship between Islam and human rights for a number of reasons. First, it brought together people from all over Europe from a range of academic disciplines. Second, it will lead to the publication of an edited collection of essays, based on the papers presented at the conference. And thirdly, it is important to record that there were areas where *all* of the Workshop delegates seemed to be in agreement. These can be summarised as follows: that religion has a role to play in public life in contemporary Europe; that the issue of Human Rights, Secularism, Democracy and Islam is an important topic that should be further examined; and that, in relation to the protection of human rights in Turkey, the European Court of Human Rights has tended to take an overly conservative approach to the protection of religious freedom. It is anticipated that delegates may build on these areas of agreement in the future. Finally, given the venue for the Workshop, it has performed the important function of highlighting the issue of the protection of human rights in Turkey more generally.

4. Workshop Programme

Friday, 6 November 2009

Afternoon	Arrival
18.30–19.30	Registration
20.00	Dinner, get-together, social event, informal (at Hotel)

Saturday, 7 November 2009

09.00-09.10	Welcome by Convenor Peter Cumper (University of Leicester, United Kingdom)
09.10-09.30	Presentation of the European Science Foundation (ESF) Prof Dilek Barlas (Standing Committee for the Humanities (SCH))
09.30-12.00	Human Rights, Sharia and Islam
09.30-10.15	<u>Presentation 1</u> "The main hurdles to compability of Sharia and Human Rights" Prof Mauritis Berger (Leiden University, the Netherlands) Session Chair: Prof Silvio Ferrari (University of Milan, Italy)
10.15-10.30	Discussion
10.30-11.00	<i>Coffee / Tea Break</i>
11.00-11.45	<u>Presentation 2</u> "On-Sharia-based arguments developed, or deployed, by Norwegian Muslims in defence of Human Rights and a Secular legal and political order" Prof Tore Lindholm , (University of Oslo, Norway) Session Chair: Prof Rik Torfs (Leuven University, Belgium)
11.45-12.00	Discussion
12.00-12.45	<u>Presentation 3</u> "Turkey, Secularism, Shari'a and Women's Rights" Dr Alev Erkilet (Istanbul Metropolitan Municipality, Istanbul, Turkey) Session Chair: Prof Eugenia Relano Pastor (Complutense University of Madrid, Spain)
13.00-14.00	<i>Lunch</i>

14.00-16.30 Europe, Citizenship and Islam

14.00-14.45 **Presentation 4 "Islam in the Public Sphere"**
Prof Gerhard Robbers (the University of Trier, Germany)
Session Chair: Prof Marjolein van den Brink (Utrecht University, the Netherlands)

14.45-15.00 **Discussion**

15.00-15.45 **Presentation 5 "Church-State relations and Islam"**
Prof Marco Ventura (University of Siena, Italy)
Session Chair: Dr Michaela Moravcikova (Director of the Institute for State-Church Relations, Slovakia)

15.45-16.00 **Discussion**

16.00-16.30 *Coffee / tea break*

16.30-18.30 Europe's Institutions and the protection of religion and secularism in 21st century

16.30-17.15 **Presentation 6 "Laicite as an issue in the process of Turkey's accession to EU"**
Prof Ahmet Yıldız (Director, Research Centre, Turkish Grand National Assembly, Ankara, Turkey)

Session Chair: **Prof Haluk Songur** (Trinity University College, Carmarthen, Wales, UK)

17.15-17.30 **Discussion**

17.30-18.15 **Presentation 7 "The 'Islamic' cases in the Court of Strasbourg"**
Prof Javier Martinez Torron (Complutense University, Madrid, Spain)

Session Chair: Prof Andrzej Bisztyga (University of Silesia, Poland)

18.15-18.30 **Discussion**

19.30 *Dinner*

Sunday, 8 November 2009

- 09.30 – 11.00 PLENARY SESSION**
Plans for follow up research activities and/or collaborative actions
- 09.30-10.15 Reconciling Islam, human rights and secular values
Session Chair: Prof Simeon Evstatiev (Sofia University, Bulgaria)
Discussants:
Prof Ahmet Akgündüz (Islamic University Rotterdam, the Netherlands)
Prof Ahmet Hamdi Aydın (Dean of the Faculty of Economics and Administrative Sciences, Sütçü İmam University, K.Maraş, Turkey)
Prof Yavuz Atar (Selçuk University, Konya, Turkey)
- 10.15 -11.00 Practical challenges and opportunities
Session Chair: Ms Mairead Enright (University of Cork, Ireland)
Discussants:
Ms Siobhan Leonard, (School of Law, Griffith College, Ireland)
Ass.Prof İsmail Hacinebioglu (Trinity University College, Carmarthen, Wales, UK)
Metin Karabaşoğlu (Turkey Writers Union, Istanbul, Turkey)
- 11.00-11.15 **Concluding Observations- Conference Organisers**
End of Workshop
- 11.30 **Organised Trip to sights in Istanbul**
- Evening *Departure*

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6. Information on Participants

Age Bracket	Number
<i>Junior Experts</i>	7
<i>Senior Experts</i>	18
Countries of Origin	
Belgium	1
Bulgaria	1
Germany	1
Ireland	2
Italy	2
Netherlands	3
Norway	1
Poland	1
Slovakia	1
Spain	2
Turkey	5
United Kingdom	4
Gender	
Female	6
Male	19

Excluding

ESF Representative Prof Dilek Barlas and two representatives from groups that have offered sponsorship to help fund the proposed edited collection of the papers presented at the Workshop: Prof Ahmet Battal, of the Democratic Lawyers Association; and Prof Ekrem Manisali, of the Foundation for Academic Solidarity.