

Research Article

The Role of Parliament in the Implementation of Shariah in Western Europe (Belgium, France, and Germany)

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Abstract.

This article aims to describe the condition of Muslims who live and integrate in Germany, Belgium, the Netherlands, and other European Regions, who should find religious foundations and interpretations that do not deviate from the boundaries imposed by a secular legal state. By calling for incorporating some Islamic law principles into British law, the Archbishop of Canterbury, Rowan Williams, has sparked interest and sharp criticism in Britain. In Germany, some journalists warned against “the Western world taking another step in the path of submission to the wishes of the minority Muslim immigrants who do not want to integrate.” Are these concerns well-founded? After conducting a literature review, we employed a qualitative approach using data from mass media, books, and journal articles to analyze the trend of a small proportion of European society, supported by scholars and clergy, who advocate for the application of Islamic law based on the principles of democracy and secularism. We studied how this phenomenon relates to freedom of opinion and the direction of community policy.

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1. Introduction

In the late nineteenth century, Switzerland witnessed a fierce debate over kosher slaughter, which resulted in a referendum in 1893 banning the practice of slaughter on religious grounds. Although this was directed at the Jewish minority, historical sources prove the existence of a discourse that seeks to entrench public awareness of specific religious “barbaric sects” that contradict the moral code of Christian society and even allegedly threaten the liberal state. Although we will not find in either case the term sharia or any of the standard translations of it, the reference to Islamic concepts such as polygamy shows that there were insurmountable differences regarding what was considered morally appropriate. The question is not as new as it seems at first

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glance. The Austro-Hungarian Kingdom issued the so-called “Islamic Law” in 1912 after it annexed Bosnia and Herzegovina in 1908, thus integrating about 600,000 Muslims into the kingdom.[1]

The law, which was exclusive to the Hanafi school of thought (but extended to all Muslims through the additional Islam law in 1988), not only led to official recognition of Islamic groups but also granted them a limited right to self-administration, as well as the right to appoint imams as military preachers for Muslim soldiers. Article 6 of the “Islamic Law” stipulates that “the principles, institutions, and customs of Islam” will enjoy protection unless they “contradict the law of the state.” The Habsburg rulers expected a systemic conflict between parts of what they called “Islamic customs” and their state’s law, which prompted them to grant legal priority to the latter.[2]

Not only did the infamous case of Salman Rushdie spark heated debates in European capitals regarding the Iranian Revolution, Sharia, and Islam as a potentially hostile entity, it was even more interesting that it forced the Islamic world, with its governments and scholars, to comment on the fatwa to clarify their positions. Well-established institutions, such as Al-Azhar, the Islamic Fiqh Academy in Mecca, and the Organization of the Islamic Conference, were quick to criticize Khomeini’s rule due to its procedural flaws, most notably the lack of trial. In addition, Ayatollah Mahdi Rouhani, Khomeini’s cousin and former head of the Shiite community in Europe, refused to carry out the death sentence and said that Europe is not subject to the rule of Sharia and, therefore, its application contradicts its national laws. On the other hand, Khomeini acted on the assumption that the scope of Sharia’s validity is universal and cannot be restricted to Islamic countries, whatever they may be.[3]

While some institutions refused to endorse the fatwa, it was adopted by quite a few. In a clear violation of the national penal code, the Federation of Muslim Student Associations in Europe offered to assist the Iranians. Twenty years later, with anti-immigrant rhetoric in Europe, a recognized Muslim leader might not dare reaffirm the 1989 fatwa. Meanwhile, the question of the applicability of Sharia in non-Islamic contexts has been high on the agenda of public discourse in Central Europe. The term itself was met with widespread rejection, and in the minds of Europeans, it was most likely associated with punishments such as stoning and flogging. The recent discussions that accompanied the ban on minarets in Switzerland or the veil in France also confirmed the negative image spread among Europeans of Sharia.[4]

These examples or the oppression of the discourse compel Muslim representatives and intellectuals to think more deeply about how to deal with such questions in non-Muslim circles in the future. With Muslim scholars still yet to reach a broad consensus

on how to respond to the historically new situation that large numbers of Muslims live as minorities under non-Islamic rule, Muslim organizations in the West have for years sought to find their way. Moreover, although the events of September 11 forced most of the associations to either issue a “covenant of Islam” document or support their subsidiary laws with a law confirming the constitutional system of their country, the critical point is what if the state law conflicts with Sharia, did not receive a serious discussion.[5]

In the past, representatives of liberal Muslims tended to avoid discussion by denying the existence of any difference between law and Sharia. Perhaps this was an appropriate way to fill in the gaps in the pre-9/11 world. Undoubtedly, focusing on common ground rather than difference has been the primary task so far in all interfaith dialogues. However, it is clear that when disregarding differences was a convenient key to building mutual understanding is over. The critics of Islam spared no effort to perpetuate the masses’ fear of Islam. Hence, the issue needs a more comprehensive approach that examines it on two levels: What will the religiously acceptable solution look like for Muslims, and will non-Muslims trust it or not? In order to clarify the aspect of Sharia law that we are discussing here, we have to divide it according to the classic threefold pattern: common law, criminal law, and private law. While there is no significant public law dimension in public discourse, criminal and private law certainly do.[6]

When the Central Islamic Council of Switzerland was founded, which is at the same time the most influential grassroots Islamic organization in the country, it had to deal with this issue. Rather than simply bolstering its by-laws in flowery terms, the General Assembly proposed an innovative and comprehensive solution.

It immediately recognized that parts of Sharia law might have been hostile to corresponding values of the liberal democratic system unless a theoretical system was put forward that provided the Muslims of Switzerland with a reasonable explanation leading to a comprehensive moral justification for placing Swiss Muslims within the potential conflict of different standards.

2. Methods

In writing this article, we used the literary method by referring to literature and obtaining information after verifying the potential for the application of Islamic law in Europe as well as support from a minority of existing parliament members. The approach we use is a qualitative approach which then describes descriptively the results of the analysis of the data that has been collected.

3. Results and Discussion

With the advent of the year 2030, the Islam Party aims, in Belgium, to establish a 100% purely Islamic state, such as “the era of our beloved Prophet Muhammad” and the application of Sharia law in Central Europe, according to Radwan Ahrouch, a co-founder of the party. Ahrush and his brothers dream of seeing a Belgium where genders are segregated on buses, halal food is served in school canteens, and electoral lists are devoid of women as much as possible. The German news agency, which interviewed Ahrush, reported that these statements drew attention in Belgium before the municipal elections on Sunday, October 14, in which the party failed to obtain seats. The French magazine “Causeur” wrote that the party’s agenda is “replacing all civil and criminal laws with Sharia. Last point.”

In contrast, the leaders of Hizb al-Islam stress that the Islamic state they seek must comply with Belgian law. Hizbul Islam entered the municipal council in Anderlecht and Molenbeek for the first time in 2012. After the Paris terrorist attacks in 2015, which killed 130 people, the Molenbeek neighborhood was famous for being the residence of jihadists; according to investigations, Salah Abdel Salam, who participated in it, is descended from this neighborhood.[7]

3.1. Hizb al-Islam Became Famous After Politicians Opposed it.

Hizbul Islam ran in the municipal elections in Molenbeek and Brussels City districts on Sunday. As for Ahrush, a member of the municipal council of Anderlecht, his list was rejected to enter the elections because he did not have enough signatures to participate, according to the district administration. At the same time, he sees himself as a victim of intrigue. He says that he has taken legal measures to appeal against the decision to prevent him from running in the elections, considering That the elections of this neighborhood should be regarded as null.

Ahrouch is not only facing trouble on the political level, but the transportation company “STIB/MIVB” has terminated his employment contract with him, noting that he worked as a bus driver for 25 years. A spokeswoman for the company said, “They, of course, respect freedom of expression, but they cannot accept the ideas of Hizbul Islam for reasons of discrimination.” While he announced after ending his work contract on his Facebook page that “the struggle continues,” speaking of devoting his entire time to “the Islamic liberation of his dear people.” The Minister of State for Asylum and Migration, Theo Francken, a right-wing populist of the New Flemish Alliance, denounced

Hizb Islam's ideas, describing the separation of women and men in transportation as: "This is not Europe, but spit on Europe." "The application of Sharia law means that there will be no debates anymore," said Peter de Roover, head of the New Flemish Alliance faction in Parliament.[8]

Moreover, regarding whether the Islam Party poses a real danger to the Belgian state, Dave Senardt, professor of political affairs at the Free University of Brussels, told the German news agency that it is clear that their ideology is based on a pattern of "radical and fundamentalist Islam," and that their proposals violate Belgian values and rights. He pointed out that the party suddenly became famous. Because others have publicly expressed their opposition to him, adding that the party is relatively small and has no prospect of success. According to party data, the number of Hizb al-Islam members is only 313. Many politicians have already called for it to be banned immediately because its goals conflict with democracy, human rights, and the Constitution. Senardt does not see banning it as an option, pointing out that no party has ever been banned in the country.

The Euro News network had quoted the head of the Islam Party, Abd al-Hay al-Baqali Taheri, as defending the idea of gender segregation by saying: "The idea of separating women from men in public transportation was born through women who were harassed and felt vulnerable to mistreatment by people. Irresponsible, perverted people, I must tell we, I see that this project has been done in Japan, and it works well, where there are carriages for women, especially during peak hours."

Hosni Obeidi, director of the Center for Studies on the Arab and Mediterranean World at the University of Geneva, told Al-Shabaka, "This party is somewhat similar to the growth of populist aspirations and nationalist rhetoric, advocated by political parties from the far right or the far left. We cannot move forward in banning a party." Political, even if this party defends extremist ideas, because the political space is extensive, and there is enough space for all these parties.[9]

Women's rights advocate Daria Safai wonders: Where will the Islamic Party's visions end if it begins with the separation of men and women on the bus, stressing that the party wants to implement Sharia law in the country, which makes women second-class citizens. It turned out that, as an activist, she had previously fought against Islamism in her country, Iran, and did not believe, after escaping from there, that after years she would have to resist this in Europe again. It seems that Ahrush is now applying what Hizbul Islam aspires to; for example, he refrained from shaking hands with Savaii and government commissioner Zohal Demir in a television interview and did not even see them during the debate.[10]

Moreover, on social networks in Germany, the news had a good effect on the supporters of the conspiracy theory that there is a hidden “Islamization” of Europe. At the same time, many reprimanded the commenters who said this proves what they always say, pointing out that it is about a small party that does not exceed the number of its members 313. The matter should not be portrayed as something resembling a transfer of power and control of the Muslims over the continent.[11]

Some commentators on the “Stern” magazine’s Facebook page expressed their lack of understanding of allowing such a party to participate in the elections, despite its strong opposition to the rule of law.

Some called on Hizb al-Islam members to head to the desert in Saudi Arabia to live as the Prophet Muhammad had. A commentator named Katya criticized the fact that party members have medieval views but, at the same time, enjoy the comforts of the West. A commentator named Andrew asked: What is wrong with this matter, pointing out that the “Bayern Party” has been calling since 1946 for the secession of Bavaria from Germany and establishing a Bayern state, which of course, did not happen. Notably, the number of Muslims in Belgium is approximately 800 thousand out of the country’s population of 11 million.[12]

3.2. Fear of Islamic Law in Europe

What does applying Islamic learning mean in the West? Will the hands of thieves be cut off soon? Moritz Bacher, a specialist in Islamic studies, has edited a book that contains attempts by several specialists in Islamic studies to answer such questions. Soon we will not be walking down the street with a beer!” “We will not be able to walk our dog near the mosque,” he shouts angrily, an elegant-looking weng man.[13] During the presentation ceremony of his book “The Application of Islamic Law in the West,” Professor Burcher of Leiden University faced anxious and angry questions from the audience, some of whom thought that the researcher supported the imposition of Islamic law in Europe.[14] “Certainly, this is not the case,” Bacher explains patiently, “but research has shown that European Muslims want to implement Sharia. Therefore, as a university professor specializing in Islamic studies in the West, I thought it my duty to search for exactly what they meant. Moreover, whether what they want is contrary to European law.”[15]

Many Dutch people are very concerned about the desire of Muslims to live in the Netherlands according to Islamic law. According to what was reported by the Dutch media, a report about a residential neighborhood in The Hague, where the Muslim

population imposes its way of life on the rest of the population, caused a sensation, and deputies asked questions in Parliament about this matter.[16]

3.3. Marriage, Divorce, and Burials

However, according to Prof. Bracher, the more significant part of this concern is unjustified. He explains this as follows: First, most European Muslims do not want to impose Islamic law on the rest of society. Instead, they want to apply it to themselves. Second: Muslims can never use the rules of Sharia, which are contrary to European laws. The good news is that they do not want that either.[10]

”The research shows that European Muslims want to apply this to the things that allow it. They want to marry, Divorce, and bury according to Islamic rules; they want to borrow money without paying interest and practice Islamic morals. Only a small minority wants to implement Islamic rules that contradict European law, such as Islamic criminal law.” “We mean that we should not be afraid that Muslims will punish someone who has committed adultery?” one of the ladies grunted. He replied, “This is forbidden, and most European Muslims do not agree with that.”[17]

”But if Muslims marry each other according to Sharia, the conditions of marriage will not favor women. Should we allow it?” asked one of those present. He said it is an important question, adding, “According to the law, they can. In a liberal state, we are free to do so as long as it is done with the consent of both parties. We can choose to change the law, but we have to realize that this law should apply to Jews and Christians, who have been applying discriminatory laws all these years. In Catholicism, for example, women are not allowed to become priests. We cannot deny the freedom of Muslims when the rest enjoy it.” No one answered this, but when I was about to leave the hall, the elegant weng man said, “They should find an exception for Muslims, Christians, and Jews who have lived here for a long time. Muslims are newcomers. Therefore, they must adapt for some time to our laws before they start applying them here.”[2]

3.4. Defense of Islamic Sharia

German Muslim politician who is State Secretary for the Berlin Government, Sawsan Chebli, 38, voiced his support for Sharia law to be implemented in Europe. According to Chebli, Sharia law regulates the relationship between humans and God and follows German rules. Apart from supporting Sharia law, Chebli, who does not wear the headscarf, also defends the hijab as a religious obligation and says there should

be no problem if Muslims want to wear it in Germany. Berlin Mayor Michael Muller has appointed Chebli as secretary of state in charge of coordinating the federal government. However, Chebli's comments on Sharia law have been criticized by his party, the Social Democrats.[18] "Chebli is one of those who want to build bridges for Islamic society. This does not seem right. This is fatal," they said.

Meanwhile, Chebli, whom a Muslim family raised, said he saw no contradiction in a Muslim wanting to develop a career in a party.[19] "My father was a devout Muslim. He rarely spoke German and could neither write nor read, but he had more integrity than any democratic party official who questioned our Constitution," said Chaplin. As is known, now about two percent of the German population, or as many as 1.5 million people, are adherents of Islam.[20]

3.5. Plurality and Implementation of Islamic Sharia

The majority in every country, and Islam stands apart from all other laws except those in everything mentioned in their holy books, even if they do not fall under personal status, as in the provisions of wine and pork. Islamic Sharia is the primary source of legislation. It was not a demand of religious groups alone but of the overwhelming majority of Egyptians, Muslims, and Christians.[21] Despite the false propaganda against the provisions of Islamic Sharia and the many articles published by Egyptian newspapers, led by Al-Ahram, warning against amending This article, and in particular what Professor (Jamal Al-Atifi) wrote in Al-Ahram, the latest of which was 14/7/1971, claiming that extremism impedes the movement of the Egyptian legislator that he started towards legalizing the revolution and the July socialist laws, as the door becomes open to challenge their unconstitutionality. Despite what was written about national unity and its exposure to collapse when this text was amended. An al-Akhbar newspaper published on 15/7/1971 that the Preparatory Committee for the Preparation of the Permanent Constitution agreed unanimously that Islamic Sharia be the primary source of legislation. This is based on the unanimity of the overwhelming majority of the Egyptian people, and this was what was broadcast on Egyptian TV in the ninth-hour bulletin on 14/7/1971 and was reported by the newspapers the next day. In Europe, which is called (Eugene Rousseau) and (Jeb), it is the Christian civilization. These laws permit adultery, and some allow perversion, and its harms permeate Europe and America, the latest of which is AIDS. Christianity is innocent of these laws, as it prohibits adultery and abominations, and all divine religions prohibit this. There is nothing that contradicts the Christian faith in the Islamic Sharia, and therefore the claim of tearing up national unity is a lie and slander.

Those who oppose the application of Sharia are the ones who fear that these rulings will affect them, whether about the theft of money or the practice of outward and inward abominations. Or related to the disadvantages of rulers to the ruled regarding rights and duties, and Christians are innocent of defending these interests and whims.[22]

4. Conclusion

The time has come for a group of residents who live here permanently and have also become part of our society to build religious foundations and find interpretations that fit within the indispensable framework defined by the secular democratic state of law. As for the necessary means for that, they exist, and one has only to use them. Many citizens here are not afraid of “Islam” but of its dark, extremist aspects, which are reflected in many attacks and propaganda aimed at spreading hatred and hostility. In fact, it should always be noted that this concerns a small minority of Muslims, whose actions and ideas are strongly condemned by most Muslims. In addition, we should not hold Muslims here collectively responsible for sad phenomena such as the persecution of Christians and followers of other faiths in many parts of the Islamic world. In addition, it is impossible to form alternative Islamic interpretations unless the appropriate institutional conditions are also provided for this, such as organizing Islamic religious lessons and building suitable schools and institutes to graduate teachers of Islamic education and imams. This will cost us a lot of money and effort, but it is necessary and there is no other choice.

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