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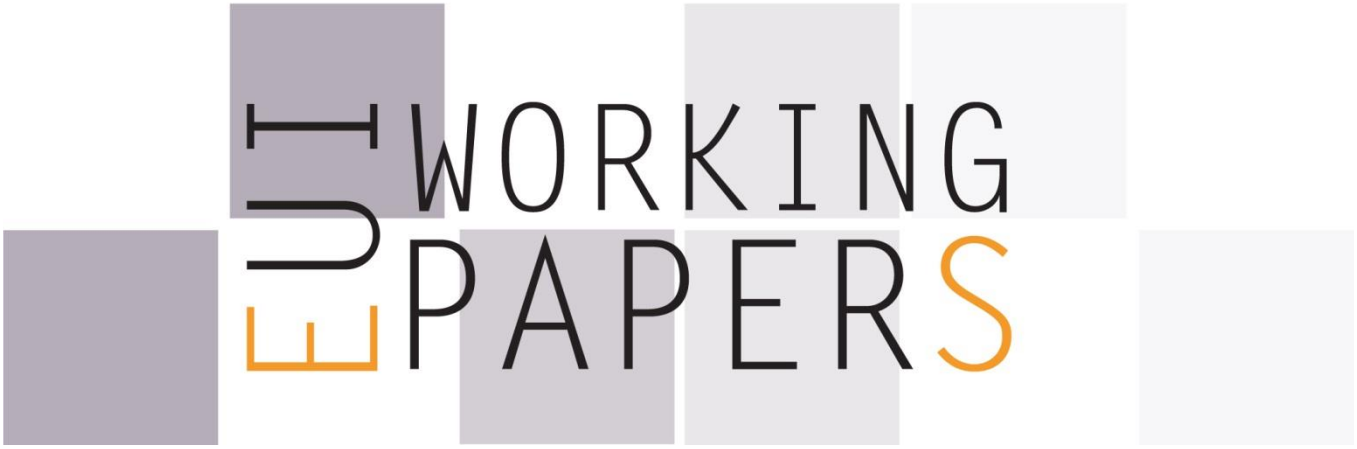

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Sovereignty, Security and Muscular Liberalism. Debating 'Sharia Courts' in Britain

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Abstract

The working paper considers the political rhetoric of ‘muscular liberalism’. Following David Cameron, ‘muscular liberalism’ is understood as a paradigm of assertive policy-making in lieu of ‘state multiculturalism’. While this orientation has achieved some prominence, its origins as well as its political effects have not been convincingly explored. A ‘stimulus-response model’, which points towards the Muslim presence in European states as the trigger for the muscular stance, fails to capture the phenomenon. It is furthermore unclear in what relevant sense the requirements that muscular rhetoric levels towards Muslims can be said to qualify as ‘liberal’ or how the reference to tensions within the ‘liberal tradition’ would illuminate the muscular position. The purpose of the paper, then, is to work towards a definition that allows considering political functions and situational potentials, in particular the projection of a desired muscular identity. It draws on the mobilization against ‘Sharia Courts’ in the UK, and the attempt to curtail their operation with the Arbitration and Mediation (Equality) Services Bill, to clarify such potentials.

Keywords

Cultural diversity; Islam; minority integration; political liberalism; British politics; Shari’a

Introduction[*]

Introducing a new theme in his government's approach towards Islamic extremism, David Cameron made first reference to the term 'muscular liberalism' in February 2011. The corresponding political agenda has been anticipated with mixed feelings but after three years it is difficult to see a coherent set of measures that would follow this particular rhetorical bent. The political relevance of 'muscular liberalism' for the British state's engagement with Muslim populations stands in doubt. Recent initiatives in the area of minority integration convey a sense of vacuity.[1] The government has arguably adopted some measures and sanctions, notably where domestic security features and where conflicts are framed civilizationally, that would seem to correspond. But these are piecemeal, rather than coherent, and could equally be understood as a continuation of earlier preoccupations, not least of the preceding Labour government that subscribed to its own type of muscular politics (see McGhee 2010).

Against this uncertain background, the paper explores the language of muscular liberalism. In a first step, it examines available interpretations and proposes an alternative definition before turning towards one episode that, rather than confirming or casting doubt on the significance of the overall phenomenon, allows for the introduction of some hypotheses about its provenance and purpose. This is the attempt by a member of the British House of Lords, Caroline Cox, to have the law changed in order to curtail the operation of so-called Sharia Courts. Drawing on support from civil society organisations and among parliamentarians from across the political spectrum, Cox introduced a Private Member's bill to tighten the existing regulatory framework for Islamic arbitration and mediation services. A minimally revised version of the bill is currently pending a second reading in the House of Lords.[2]

Among the questions this episode raises, the following puzzle stands out. Despite the proximity between Cox's initiative and the tenets of muscular liberalism in public rhetoric, it seems unlikely that political change is forthcoming in the way Cox and her allies request. This is a question on the mind of anti-shari'a activists, too. Marie Anne Waters (2013) of the organisation *One Law for All*, which campaigns in support of Cox's bill, thus remarks:

> David Cameron once said that multiculturalism had failed - he has yet to prove that he means it. There is no better opportunity than this; he should shut down the sharia councils (or any other body that facilitates the rape of children and encourages violent misogyny) that his government currently defends in the name of culture, prosecute hate speech and incitement to murder, prosecute child marriage as rape, end cultural relativism and racist separatism once and for all...

Cameron's leadership is almost certainly more constrained than Waters suggests, with numerous political, legal and administrative obstacles providing partial explanation for this failure to act. Yet given the publicity around muscular liberalism as a governmental commitment, the question still bears reflection: why does the British government prove reluctant to enact laws and adopt measures that would follow the rhetorical impetus? What does 'muscular liberalism' actually signal and what type of political practice would seem correspond to it – or does our expectation of what links rhetoric and practice need to be re-adjusted when political leaders, not just in Britain, articulate muscular commitments in public.

The concern with this paper, then, is to work towards a clearer view on muscular liberalism. I will develop a perspective that foregrounds its situational and affective potentials as a sort of 'emergency

[*] I am grateful to Anna Triandafyllidou, Tariq Modood, Rainer Bauböck, Anne Koch, Bouke de Vries and Aleksandra Lewicki for valuable comments. Shortcomings are my own.

[1] See in particular the definition of 'integration' and the policies envisaged in Department for Communities and Local Government (2012).

[2] Arbitration and Mediation Services (Equality) Bill [HL] 2014-15

politics' (Honig 2009). This means treating muscular liberalism as a political modality, rather than a coherent and continuous orientation, and examining the circumstances of its mobilization. It means downplaying philosophical tensions between distinct 'faces of liberalism' that have little explanatory value. It also means turning away from the illiberalism entailed in the monitoring of subjective beliefs that prominent scholars of minority integration associate with the phenomenon. Proposing an alternative, the paper works towards a political, rather than normative, definition of muscular liberalism and its presence in contemporary public rhetoric.

After offering a sketch of muscular rhetoric, the paper reviews assumptions about its political effects, as well as its ineffectiveness, in scholarship on minority integration. Shortcomings of perspectives in this field are illustrated by how meaning is construed around the keyword 'sharia' in the British press and by the types of remedies that shari'a-related challenges are seen to require. With a review of the legislative debate about 'Sharia Courts', the paper concludes with a discussion of what this indicates about muscular liberalism in the context of normative positions, mediatized images and political practices surrounding the presence of Muslim populations in Britain.[3]

The rhetoric of muscular liberalism

Cameron delivered his speech on 'muscular liberalism' in 2011 at an annual meet-and-greet for politicians, national security experts and representatives from the arms industry: the Munich *Sicherheitskonferenz*. The Prime Minister set out by announcing that despite cutbacks on military expenditure Britain was not 'retreating from an activist role in the world'. He then developed themes from within domestic debates on 'radicalisation' and endorsed the notion of a spectrum of troublesome positions among British Muslims, ranging from those who show 'real hostility towards Western democracy and liberal values' towards others who embark on violence. Mirroring this disavowal of 'retreat' in global politics, muscular liberalism meant confronting both violent and non-violent extremism.

Cameron's other central message was that it had become 'hard to identify with Britain … because we have allowed the weakening of our collective identity'. The 'doctrine of state multiculturalism' had encouraged segregation and there was no 'vision of society' to which young Muslims feel they could belong. Minority status and political correctness had shielded Muslim communities from criticism for their illiberal practices. Extremist ideologies should be confronted and 'a clear sense of shared national identity [reinforced] that is open to everyone'.

The speech attracted interest as it seemed to outline a novel approach in the risk management of British Muslims and more clearly committed the government to the 'conveyer belt' view on radicalisation, positing the continuity between non-violent fundamentalism and violent extremism. It also seemed to suggest a less cooperative stance towards Muslim civil society associations and hinted at more restrictive policies in the area of minority integration. The speech was pitched against 'failed policies of the past', collectively captured under the umbrella of 'state multiculturalism'. Yet many of the concerned policy ideas as well as elements of Cameron's rhetoric had to varying degrees been present under the previous government (McGhee, 2010).

If anything, the Prime Minister's claim to novelty was born out by emphasis on gender equality, freedom of speech and the rule of law, which featured as principles according to which Muslim individuals and associations would be judged. The speech represented a more direct attempt to specify British national identity by way of a contrast with 'radical Islam'. While the previous government had also sketched out values of 'Britishness' in relation to alleged failures of minority integration, in

[3] I only provide a minimal sketch of the legal issues that are at stake in the case of 'Sharia Courts' (see Shah (2009), Ahmed and Norton (2012) and Malik (2012) for valuable summaries).

Cameron's address the threats associated with the presence of Muslims in Britain have become more closely and conditionally linked with national identity and an attendant canon of national values.

Cameron's rhetoric bears resemblance not just to signals from within the preceding Labour government but to high-level rhetoric across Europe (see Lentin and Titley (2011) for a summary). Since the 1990s, requests to re-fashion liberalism in order to cope with Islamic radicalism have been a feature in European conversations on the integration of post-immigration groups, specifically Muslims. Cameron's muscular liberalism forms part of broader rhetorical tendencies, then, that bear out a myriad of speech acts on the place of Muslims in the liberal state. Many of the relevant interventions request compliance with liberal values, or at least aim to be reported as such. They propose a new state commitment, more often than specific policies, for bringing about adherence with liberalism on a fundamental and personal level.

A common description credits growing problems of Muslim integration and Muslim intransigence more generally, which is said to bear out to a new civic-universalist response. Challenged by far-ranging requests for religious accommodation, states fortify their citizenship regimes and embark on universalist or muscular projects. This 'stimulus-response' model acknowledges the risk of overreaction, which observers see in the advent of an exclusionary 'identity liberalism' that emerges around the notion that 'the liberal state is only for liberal people' (Joppke, 2010, 140). Muscular liberalism stands shorthand for a set of political responses – some of which are justified, while others may be problematically illiberal – that are said to emerge in the confrontation between self-doubting liberalism and confident Islam. Elements of this view are present in strands of the literature that exceptionalizes Muslim 'claims-making' or that charts a trajectory of 'national models' of minority integration that is uniquely responsive to alleged Muslim intransigence. The following offers a partial review in order to set up an alternative perspective.

Explaining muscular liberalism

If the muscular phenomenon can be usefully theorized and is well-understood in response to the illiberal stimulus of the Muslim presence in Europe seems doubtful if only for reasons of historical repetition. Liberal nation-building has frequently relied on the contrast provided by putatively illiberal outsiders – previously: Jews and Catholics, now: Muslims – and this recurrence would point to different dynamics. This also applies to theoretical angles invoked by scholars of minority integration, specifically those dealing with liberal states' legal and civic responses to Muslim claims-making, that locate conflicts around stable normative repertories associated with political liberalism.

For example, echoing Barry's critique of cultural rights, Hansen (2011) argues for the privatization of 'difference' as the appropriate understanding of the liberal tradition. Prescriptions he endorses as liberal are exemplified by two country cases: the United States' commitment to markets and the French insistence on 'universal national values' (2011, 885). The suggestion that follows is that flexible labour markets and minimal welfare regimes incentivize work, prevent dependency, activate minority populations, and in doing so outperform their corporatist counterparts. The French case – illustrated by survey data on attitudes among European Muslims – shows that integration succeeds 'when the receiving countries have a clear integration framework reflecting confidently held values' (2011, 894).

In what sense the normative preference for social minimalism and moral republicanism is illuminated by reference to 'two faces of liberalism', as the title of Hansen's paper suggests, remains unclear. In terms of its appetite for moral regulation, but also for its social visions and stance towards redistribution, political liberalism is a context-dependent set of ideas that allows for many possible combinations (see for example Freeden, 1978). Notwithstanding, conflicts and problems are connected to the Muslim presence in Europe and accounted for in the terms of an antagonism with political liberalism, which becomes an explanatory variable in its own right. This antagonism relies on a

staging of caricatures on both sides when it pitches more or less stable repertories of political liberalism against Muslim exceptionalism and intransigence (e.g. Joppke, 2009, Ch. 5; Koopmans, 2013).

Other scholars, or the same scholars adopting a different tone, insert their empirical descriptions and causal stories into more nuanced views on tendencies within liberalism, highlighting the desire for moral regulation in muscular liberalism as one such nuance. It is often, not unreasonably, presumed that muscular rhetoric lacks a corresponding public policy form (e.g. Joppke, 2014) or is directed not at immigrants but 'native voters' (Hampshire, 2013, 153). With this scepticism, the argument mirrors pragmatic critiques of 'perfectionist' or 'comprehensive' liberalism in political theory, which suggest that the former's maximalist requests veer towards the impractical. Comprehensive requirements, such as that individuals ought to subscribe to the value of pluralism or lead autonomous lives, are difficult to implement. Bader (2007, 311) thus alleges that the most 'demanding values of comprehensive liberalism […] cannot be meaningfully transformed into legal obligations'. Indeed, for a number of reasons it may seem difficult to believe that public policies could put the value of autonomy into effect: it is unclear how autonomy could be 'read off' individual biographies, by what means it can be brought about or because required means might fail the test of liberal-democratic palpability.

Others suggest that there is some continuity between ideas, rhetoric and political practice. For Joppke, for instance, the label 'muscular liberalism' is reserved for measures that go problematically far in demanding adherence to a liberal identity (Joppke and Torpey, 2013, 153). This would include intrusive lines of questioning in citizenship tests or oaths that are increasingly found at the endpoint of naturalization procedures and require aspirants to profess their commitment to certain values or a national creed (Orgad, 2014, 30).

This viewpoint highlights a theoretical opposition between political or Rawlsian liberalism, on the one hand, and perfectionist or Foucauldian liberalism, on the other (Joppke, 2007, 15-6). The latter bears out intrusive state practices. These may still qualify as 'liberal', notably because they only become understandable as part of the liberal state's attempt to respond to the challenge of illiberal populations and to Muslim intransigence (e.g. Joppke, 2009, Ch. 5). The advent of muscular liberalism is triggered, then, by the presence of Muslims among which 'reverberates the archaic power of religion' (Joppke 2009, 111, see also Joppke and Torpey 2013, 153). The current thickening of liberal precepts, as well as the departure from multiculturalism, has to be seen and becomes understandable in this light.

Muslim stimulus and muscular response?

Does the political rhetoric of muscular liberalism fit into the causal account of Muslim stimulus and muscular response? The assertion is that muscular liberalism is genuinely 'driven by the instinct that it is not enough to agree to liberal-democratic norms only instrumentally' (Joppke, 2014, 293). Yet the prescriptions advanced by Cameron that a new approach ought to supersede the disengaged policies of the past, which on this note is at least descriptively in tune with the scholarly 'stimulus-response' model, are more tenuous than they seem. The claim is that, in light of social problems associated with the failure of laissez-faire liberalism, the restrictive turn in state engagement with Muslims derives from new liberal hardnosedness. This includes, first, the demand that liberal principles ought to be internalized and, second, that liberalism ought to constitute an identity. Both are doubtful, at least on the basis of the data points that muscular rhetoric provides.

One reason is that the relationship between liberal content and muscular measures is not as clear as suggested. For those subjected to them, the complaint about restrictive measures in citizenship acquisition or immigrant integration tends to be about methods rather than doctrines. Where particular groups are singled out for new restrictions, or disproportionately affected by them, or where policies are implemented in humiliating circumstances, this may occasion protest. The mere fact that the

symbolic rationale of measures is deemed to cross a certain boundary of liberal non-intrusiveness will be less noticed, compared to the form that the concerned measure takes. This is important to mention because there is, of course, a multiplicity of non-liberal rationales for states to pursue restrictive policies towards minority groups or populations that are deemed problematic.

Furthermore, it is not clear that the rhetoric of muscular liberalism – as opposed to theoretical accounts of perfectionist liberalism – actually contains the demand for liberal boundaries to be crossed. Regarding the latter, the request for liberal values to be internalized, such as for an endorsement of the value of pluralism, has a place in comprehensive liberal theory. The reason it is difficult to pin down corresponding requests in political rhetoric, I suggest, derives from the near-complete absence of specificity about the character, identity and commitment that muscular liberalism is said to require.

Relevant proclamations rarely include the requests for the practice of 'autonomy'. Apart from France, the protection of the public sphere from religious intrusion is not a particularly prominent demand. When engaging presumed offenders, Muslims in particular, commitments become somewhat more tangible. Beyond this contrast with imaginary others, they remain ambiguous and vague. The more concretely they are put, the more fragile their hold among majority constituencies appears. This does not stop them from becoming part of the toolkit available to single out Muslim non-compliance, such as regarding the commitment to equality of sexual orientations or the rejection of homophobia. But these particular commitments transcend the domain of non-instrumental attachment to liberal-democratic ideals that has been mentioned above. Their more specific function, not least where sexual equality becomes a sticking point for actors that normally have no particular interest in the topic, is for clearly preconceived purposes of discrimination. Regarding the values and principles that genuinely belong to liberal democracy, and that muscular liberalism allegedly requires non-instrumental attachment to, there is no such specificity and in fact a glaring absence.

Applying Galston's (1995, 523) distinction between two strands of liberalisms that are committed to tolerance or autonomy – stylized as a tension between the philosophical traditions of Reformation and Enlightenment – Cameron's disavowal of 'passive tolerance' may be understood as a rejection of the former, proceduralist model. But it is unclear in what relevance sense this would also entail an endorsement of the latter. While passive tolerance and liberal laissez-faire are proclaimed enemies of muscular liberalism, there is no certainty about its commitments, which is easily detectable in the relevant proclamations by its political advocates (e.g. Cameron, 2014).

What about 'identity', then, and the request that liberalism either ought to be practiced as a 'character ideal' (Mouritsen and Olsen, 2013, 148) or that it be brought closer to national identity (Hampshire 2013, 155)? The case has been made that liberal ideas inform more directly the task of national identity-building – and in this sense it could also be said that muscular liberalism 'prescribes a shared way of life' (Joppke, 2010, 138). The ambition to 'shape our overall conception of the good life, and not just our role as citizen' (Larmore, 1996, 132) partially fits the bill. But according to which set of specific and distinctive principles, exactly, these conceptions are to be shaped remains uncertain.

The lack of specificity in national-level commitments to liberalism is widely noted, and their usefulness for nation-building has been questioned as a result. It is less frequently asked what ensues when similarly underdetermined ideas are pitched towards subjects that are presumed to be non-compliant and, thus, what remains of subjective and perfectionist requests that are void of any specifically liberal content. The de-emphasis of the liberal credentials in the muscular position would point in particular to two types of effects:

- Muscular liberalism is received as the request for preparedness to change and as a message that reinforces the sense of insecurity that results from indeterminate requirements. This content-free perfectionism reinforces the request for self-improvement and continuous change that has become characteristic for much contemporary social policy-making, which increasingly envisages the 'activation' of troublesome populations (see Dobbernack 2014).

- More centrally for the present discussion, for politicians or political agencies sending muscular messages, *the display of commitment and engagement may prove attractive even where these have no traceable liberal foundation*. Speaking in a 'sovereign mode', the promise of a 'crackdown' or of sifting chaf from wheat is attractive independently from how the according demarcations and interventions are justified.[4]

Normative political theory illuminates abstract commitments but fails to capture this activist re-orientation. The relevant dynamics are more suitably explored among the political circumstances of muscular liberalism, in the symbolic content that forms part this orientation and the affective investments it mobilizes. As an alternative to a definition that overstates normative ingredients and cognitive orientations, the following elements of a political definition of muscular liberalism give a more appropriate account:

- The understanding that past approaches of minority integration have failed. Such approaches are attributed, as in Cameron's rejection of 'state multiculturalism', with a peculiar force, coherence and grip.
- A causal account for failures that stresses constraints: liberal, legal and procedural as well as others derived from excessive cultural sensitivity and the all-pervasive theme of 'political correctness'.
- The understanding that such constraints have to be overcome, taboos broken, values asserted and sovereign control re-established.
- On the basis of these elements, a position that promises the release from burdens, reinvigorated sovereignty and the unleashing of national energies.

With these elements of a political definition we are led towards wholly different circumstances than those explored in much scholarship on challenges of Muslim integration in 'the liberal state'. For one, we would expect muscular liberalism to have a less than continuous political presence and manifest itself as a set of potentials that are present in some circumstances, but not in others, depending on contexts, arenas and exigencies. The relevant background for such potentials will not be found, as the 'stimulus-response' model proposes, among challenges that individual Muslims or global Islam pose to the liberal state but in attempts to employ old and new signifiers to consolidate boundaries and demarcate identities. The following applies this perspective to one particular instance.

Shari'a in the press

Knowledge of Islam circulates in different public and semi-public arenas, including expert institutions, security bureaucracies, and the media, where it is made digestible to audiences that become familiar with recurrent themes and images. A schematic study of how particularly challenging aspects of Islam and the Muslim presence in Britain are reported with reference to the keyword 'shari'a' allows for further clarification of the political repercussions of muscular rhetoric and its connection to Muslim populations.[5]

In the UK press, the occurrence of 'shari'a' entails a tendency towards sensationalist positions and extreme harms, although this is not exclusive and a frequent mode of reporting presents itself in the form of sober assessments of serious challenges. There is diversity among harms diagnosed with reference to 'shari'a' as well as among the courses of action propagated in response (see Table 1 for an

[4] In this sense it would maps ont the figure of liberalism as a 'fighting creed' (Taylor 1994, 62), albeit one where liberalism merely provides some of the argumentative resources for the desired combativeness.

[5] This part of the paper draws on a trawl of 814 newspaper articles in seven British national-circulation papers during 2013. Of the articles identified, 217 contained reference to harms and challenges associated with aspects of the Muslim presence in Britain and were coded using Atlas TI. Results will be forthcoming in a separate publication.

overview of the most prominent stories). In 2013, these included international incidents of limited domestic relevance, such as the reference to mobilizations among Saudi-Arabian women to circumvent their country's ban on driving – the result of the country's 'strict' interpretation of Shari'a – or the presence of young European Muslims among militant groups fighting in Syria (which more recently has become an issue of acute domestic concern for the prospect of their eventual return). It includes actionable propositions about how challenges ought to be addressed: for example, that Islamic Societies at British universities should be forced to abandon 'gender segregation' at public events or that individual 'hate preachers', such as Anjem Choudary, should be dealt with more aggressively by state agencies.[6]

Yet it also comprises numerous threatening scenarios for which there is no corresponding course of state action. The criticism of Islam in a segment of the right-wing press is enmeshed with the denunciation of 'liberal metropolitan elites' for undermining national culture and cohesion, pushing multiculturalism and betraying 'traditional British values'.[7] But even in the mainstream, where it is usually not 'liberal elites' but different versions of laissez-faire liberalism that are being denounced, the challenges identified often seem curiously detached from any liberal goods that would seem to be at stake.

Where the topic of Shari'a appears, it tends to form part of three interrelated clusters that identify broadly threatening tendencies around the following themes: i) an emphasis on Islam's incompatibility with liberal achievements; ii) the threat of Islamist takeover and iii) the need to defend the supremacy of British culture and law. While all of these positions allow for the specification of failures attributed to liberal laissez-faire, none of them reflects the singular importance of normative-cognitive orientations

Liberal achievements: In this cluster, shari'a threatens historical standards of rights and achievements, which only a more combative liberalism can defend. In relation to gender equality, this includes in particular interventions by feminist writers, often showcased in the right-wing press, who accuse fellow feminists for failing to engage oppression when committed by Muslims. The full-face veil, the *niqab*, is 'a symbol of the relentless subjugation and control of women' (Bindel 2013, Daily Mail, 18 September). This symbol has experienced 'casual acceptance' and feminists have failed to stand up to it: the 'silence of the British sisterhood is shaming'. Public authorities, in turn, show 'abject cowardice […] in refusing to stand up against even the most blatant forms of illiberalism'. The failure to tackle oppression results from constraints and timidities imposed by a misguided practice of liberal tolerance.

Spaces of shari'a: Scenarios of Muslim takeover, and the resultant expansion of 'spaces of sharia' (Caldwell, 2009, 132) across Western Europe, is made concrete in references to various demographic, political, moral and cultural tendencies. In different arenas, this takeover is facilitated by similar delusions about Islam and the erroneous assumption that it can be accommodated just like any other 'subjective belief' (whereas this is precisely how it cannot be 'processed in the liberal constitutional state', as Joppke (2009, 111) argues). Long-standing concerns with segregated patterns of settlement are reinforced by reports on 'no-go' areas for non-Muslims or 'Muslim Patrols' enforcing shari'a on British streets. From the anecdotal to the universal, reports draw connections between particular spaces and civilizational struggle about Muslim ascendency in British public life and globally. The request for individual accommodations, including of dietary customs or habits of dress, forms part of a maximalist ploy that liberals acquiesce to at their own peril.

Supremacy of British law: Shari'a is presented here as a comprehensive and antagonistic system of religious law. When faced with what are reported as its manifestations, a default response is to insist

6 Choudary has since been arrested and bailed on terrorism charges.

7 Journalists such as Leo McKinstry in *The Express* or Peter Hitchens in the *Daily Mail* accuse such elites for their acquiescence to the 'spread' of shari'a.

on the supremacy of British law and culture. The hostile reception Rowan Williams achieved for his public thoughts on the place of shari'a-based arbitration within the framework of English law, exemplified this dynamic of drawing the line around monolithic and antagonistic systems. In this request for legal supremacy, it is difficult to distinguish whether the offence that shari'a represents consists of the breach it allegedly inflicts to the law of the land or if there are specific elements in it that give cause for objection. A common accusation, however, is that public authorities in the past had been unprepared to insist on the supremacy of British law as well as British public culture, and that liberal constraints were the primary reason for this.

In representations of dangers and harms that circulate in the press and elsewhere, the defence of liberal order is said to be hampered by liberal timidity. Different from the preoccupation with contradictions inherent in the liberal tradition, the according representations are not primarily drawn from philosophical commitments or take issue with a process of moral reasoning. They propose a denunciation of timid, laissez-faire liberalism, which is portrayed as an affective disposition rather than a philosophical stance, and propagate an interventionist alternative that is also largely defined by affective modalities where the display of being 'hands-on', 'outspoken' and 'engaged' amounts to a character ideal.[8]

The resistance by individuals, groups or social institutions that are said to protect illiberal minorities from criticism is registered as an obstacle towards the projection of a desired identity that is defined and mobilized through muscular affect. This identity is scarcely explained by the desire to effectively engage Muslim illiberalism, nor is its appearance related to tangible political objectives in how Muslim populations ought to be dealt with by the state. Where these enter, it is tempting to see them as mere add-ons to the projection of a politically effective and affectively appealing image of the national, muscular self. Putting it with more nuance: in some circumstances, the credibility of the muscular stance requires policy measures that would have Muslims as their target. In many others, it clearly doesn't.

Following this alternative account, a number of conclusions present themselves. *First*, the display of muscularity is not necessarily or primarily connected to muscular politics, at least not in a straightforward fashion. Public arenas matter and so does the question of whether muscularity needs to be backed up by policy measures to be credible or whether it feeds into administrative practices. Significantly, these ways in which muscular liberalism may turn out to be effective are different from conventional assumptions about how cognitive-normative orientations occasion political action. *Second*, muscular liberalism is not necessarily about Muslims. It allows for the casting of multiple contrasts with institutions, groups, sentiments, political approaches and convictions that stand accused of liberal timidity and of failing to adopt an assertive stance in the face of ultimate harms. *Third*, these contrasts are cast in order to be surmounted; they are more likely to remain in a state of continued suspense. This creates the potentials for an 'emergency politics' as the practical manifestation of muscular rhetoric but it is less likely to entail a wholesale suspension of 'normal' procedures that some theorists of emergency envisage (see Honig, 2009 for useful comments).[9] Following these lines of inquiry, we are directed towards the channelling of emotions, the breaking-free from constraints and the unleashing of an 'emergency politics', which all indicate political modalities that sit alongside rather than replacing potentials for 'normal' politics. The following discussion of legislative debates around 'Sharia Courts' illustrates this coincidence.

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[8] The attitudinal underpinnings of political liberalism cannot be further explored here (but see for example Hamburger's work (2000, 1227) on 'liberality' in the US context and its development into a 'popular sentiment' that could be employed in nativist anti-Catholic politics).

[9] In an otherwise illuminating discussion of 'illiberal liberalism', Triadifilopoulos (2011) borrows from Carl Schmitt to frame similar potentials in terms of a suspension of 'normal politics'. This risks missing out on situational effects of muscular liberalism and its coincidence with ordinary political procedures or administrative practices.

Debating 'Sharia Courts'

Accounts of the harm associated with shari'a, as well as alternative understandings of the danger associated with Muslims domestically and abroad, can be modified in light of new situations. Their deployment does not clearly demarcate camps and the everyday potentials of muscular liberalism, previously discussed, are spread out across the political landscape. The fact that mainstream Conservative actors avail themselves of muscular themes does not mean that they always do so, or that the repertories of muscular liberalism would be unavailable to actors on the centre left. Against Labour, Cameron marshalled the alleged failure of 'state multiculturalism' and the weakness of showing too much 'passive tolerance'. Yet the Prime Minister is equally open to being assailed by actors that challenge his commitments, notably his belonging to the 'metropolitan elites' who stand accused of inaction in the face of problems and harms identified previously.

Contestations about 'Sharia Courts' have erupted in a number of contexts and follow their own sequential logic. In Germany, remarks by a state official to the effect that Muslim religious arbitration should be theoretically permissible caused a considerable pushback that followed the well-trodden lines of the German *Integrationsdebatte* (Wiedermann 2012). The prohibition of religious arbitration in the Canadian province of Ontario in 2006, for example, resulted from a constellation of political forces and specific framings (Korteweg and Selby 2012). Despite this specificity, such contestations represent an interesting object of comparison for the arguments that are invoked and anxieties they reflect, and for how dynamics of rhetorical problematisation may lead to political and legislative change.

In the British debate about 'Sharia Courts' that concerns us here, not their proscription, but the terms are at stake according to which Muslim communities can offer dispute resolution in accordance with religious tenets. Such mechanisms exist in accordance with provisions in the Arbitration Act 1996, which allows for the formalization of arbitration outcomes between two parties that willingly submit to certain procedures in civil matters. The Act creates not merely or specifically the possibility of arbitration for Muslims but also applies to Jewish *Beth Din*, Catholic marriage tribunals and numerous forms of non-religious arbitration.

The 1996 Act does not amount to state recognition of minority legal orders, nor do decisions that tribunals arrive at bind regular courts if found to be biased or in breach of natural justice (Ahmed and Norton 2012, 4). The force that rulings of the relevant arbitration tribunals obtain is dependent on initial consent. Nonetheless, subject to procedural requirements of consent and fairness, arbitration outcomes may become binding. (This would seem indefensible, then, if judged against Barry's (2001, 128) standard that '[w]hat a liberal state cannot do […] is give the force of law to religious rules that contravene liberal principles of equal treatment.') These forms of dispute settlement, which for Muslims exists since 2007 in the form of Muslim Arbitration Tribunals (MATs), are different from a range of mediation and consultation services that are offered by numerous Muslim bodies in Britain and whose authority depends entirely on the perception of participants. In the debate about 'Sharia Courts', and in Baroness Cox's bill, these two types of institutions are only loosely distinguished, although they throw up distinct questions and would seem to require different types of oversight and regulation.

Proponents of religious arbitration and mediation argue that the relevant procedures respond to demands by minority communities for having issues considered in accordance with their faith. Religious arbitration provides elements of the type of justice that is appropriate in the case of a pluralistic society such as Britain. In particular the fact that among the concerned communities a significant number of couples are married in accordance with the *nikah*, not by way of civil marriage, creates circumstances where such services become necessary. Pragmatically acknowledging the reality of Muslim life in Britain means acquiescing to the accommodation of at least some aspects of shari'a.

Yet the same state of affairs could also be regarded as unsustainable for how religious norms undercut British law to the detriment of women in particular.[10]

The controversy about arbitration and mediation services follows more general disputes about the extent to which religiosity and autonomy can be said to coexist or whether the notion of respect for religious choices provides a cover for oppression (see MacEoin and Green 2009, 4). The harms that Muslim arbitration allegedly inflicts is said to affect women in particular and to cement the differential status that they have in specific acts of Islamic arbitration, such as in matters of inheritance and divorce (Ahmed and Norton 2012, Malik 2012). Cox hence suggests that

> the power of Sharia councils lies in how they are perceived by their communities, allowing the creation of de facto legal structures and standards which contradict fundamental British legal principles—and the fundamental principle in this country of promoting gender equality and eradicating gender discrimination (HoL, 19 October 2012, Column 1716)

The following traces the way in which these and other harms of shari'a have been articulated in support of the bill and the effect that they could develop in the debate of the bill in the House of Lords.[11]

The opposition to Muslim mediation and arbitration services unites socialists, liberal secularists and republicans as well as mainstream conservatives, neo-conservatives and the far-right, although the latter was not conspicuous in the mobilizations examined here. Caroline Cox's career included advocacy on disability rights and against the persecution of Christians abroad as well as an affiliation with evangelical pressure groups and organisations that are largely or exclusively concerned with Islam.[12] Her campaign attracted the support from the main secularist and humanist organisations as well as important advocacy groups on gender equality, such as Southall Black Sisters, and campaigners for LGBT rights, such as Peter Tatchell.

Participants in this coalition have rallied in particular around the universally palatable commitment to the supremacy of British law. 'One law for all' was the title of a review that the conservative think-tank *Civitas*, with which Cox is also linked, issued in the aftermath of the former Archbishop Williams' comments on shari'a and English law in 2008 (Williams 2008). The report highlighted three concerns: it mentioned, first, the questionable nature of voluntary consent in arbitration: since there was allegedly 'a good deal of intimidation of women in Muslim communities [..] the genuine consent of women could not be accepted as a reality' (MacEoin and Green 2009, 4). Second, it raised the fundamental inequality for women allegedly enshrined in the Qur'an and, third, the backdrop of 'fear'

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[10] It is a frequent request by parties in the debate on Islamic arbitration and mediation that Muslim marriages should also be formalized in accordance with state law – an option that can be granted by Muslim places of worship in the UK, subject to legal prerequisites. An unknown but certainly significant number of *nikah* will have been performed abroad and would not be affected by such possibilities.

[11] In the way it was introduced in 2012, the bill proposes amendments to the Equality Act 2010 to outlaw instances of gender discrimination, such as the inferior weight given to the testimony of women, in the provision of arbitration services and to extend the protection for women who are religiously, but not civically, married as well as to raise their awareness of rights; it proposes amendments of the to the Arbitration Act 1996 that address gender discrimination in arbitration procedures (regarding property rights and the weight of testimonies) and to exclude criminal and family law matters from the act; it proposes amendments to the Family Law Act 1996 to take account of instances where consent in negotiated agreements was 'not genuine'; amend the Criminal Justice and Public Order Act 1994 to cover instances of intimation by victims of domestic abuse; and amend the Courts and Legal Services Act to create a new offence consisting of 'falsely claiming legal jurisdiction' in cases excluded by the Arbitration Act 1996 (e.g., family/criminal law matters). The revised version of the bill that was tabled in 2013 contains the same provisions with two exceptions: the exclusion of family and criminal law matters as 'non arbitrable' (Part 2(4)) has been withdrawn and the provisions for 'falsely claiming legal jurisdiction' (Part 5(7)) simplified but also equipped with an increased maximum sentence of seven years (previously 5 years).

[12] This includes the *Centre for Social Cohesion* (now part of the *Henry Jackson Society*) whose Director, Douglas Murray, once requested that 'that the whole deal under which Muslims live in our societies must change' and that '[c]onditions for Muslims in Europe must be made harder across the board' (Murray 2006).

(either of God or due to 'the wish to remain in good standing with fellow believers') that underpins religious authority and that make Islam an unsuitable basis for arbitration.

In the aftermath of the clamour around Williams' speech, *One Law for All* also became the chosen title for an advocacy group that began its work shortly after Civitas issued its report. In an initial position paper, this group outlined atrocities perpetrated under the auspices of shari'a-based penal codes in countries such as Iran and Afghanistan. Regarding the domain of civil and (with limitations) family law, which rather than penal law are at stake in the British context, the report suggested:

> Whilst there is an obvious difference between stoning a woman to death and denying her the right to divorce and child custody, the fundamentals and misogyny behind Sharia's civil and penal codes are the same – it is just a matter of degree. (One Law for All 2010, 6).

Religious arbitration and mediation come under scrutiny here for offenses to gender equality, to the well-being of children and for the imposition of conservative moral standards (ibid, 1-20). Only later in the report are additional harms mentioned (such as to 'social cohesion', 2010, 22), and the main focus clearly rests on women's rights. These are considered to be at risk not just by Shari'a directly, but for harm entailed in the cultural climate: women's rights constitute an important historical achievement that is at risk due to illiberal groups' insistence on cultural rights which have been granted as a result of liberal timidity and insufficient assertiveness.

The Arbitration and Mediation Services (Equality) Bill

At the second reading of the bill on 19 October 2012, Cox prefaced her intervention by highlighting the two objectives of fighting 'religiously sanctioned gender discrimination' and the threat of 'rapidly developing alternative quasi-legal system' (HL Deb 19 October 2012 c 1683). Anticipating the accusations of anti-Muslim bias, Cox introduced her initiative in general terms: the provisions in the bill would not single out Islam and be equally available to women of other faiths.

The harms that Cox highlighted in the following were clearly meant to be seen as specific to Islam. They included the allegation that 'Sharia Courts' failed to do justice to victims of domestic abuse, encouraging women to remain in abusive relationships, and their inferior legal status in the proceedings of tribunals more generally. A second example referred to unreasonable, impractical and costly requirements of obtaining consent from male relatives as a prerequisite for granting religious marriages. Cox also briefly raised a third example concerning child custody.[13]

With these examples, which were said to constitute the 'tip of an iceberg' (HL Deb 19 October 2012, c 1684), Cox sought to draw attention to the overreach of arbitration and mediation practices, and her desire to regulate, rather than abolish, religious arbitration. Arbitration outcomes, which can be binding if two parties decide to be bound, should be made easier to set aside. The voluntary nature of mediation and recourse to mainstream justice should be safeguarded. False claims made by the protagonists of the relevant tribunals to adjudicate in areas outside their legitimate purview should be made subject to a prison term of up five years (increased to seven years in the new version of the Act that is yet to be debated).

The majority of participants in the plenary debate in the House of Lords spoke strongly in support of the Act. This is not surprising since Private member's bills depend on the approval they are seen to receive from parliamentarians whose support will have been secured and who will have been briefed beforehand: eleven peers representing various political orientations expressed various reasons for their

[13] This last concern received less emphasis because existing exclusions of family law from arbitration render the request for additional state interference less plausible. Cox also mentioned that her bill contained some deficiencies in relation to family and criminal law matters, which she acknowledged would need to be revised (HoL 19 Oct 2012: Column 1684). These revisions have not been made in the largely unchanged version that has since been put forward (Arbitration and Mediation Services (Equality) Bill [HL] 2014-15).

support; four peers voiced doubts. The latter speakers, however, included the government and opposition spokespersons that raised significant questions about the legislation. The following briefly summarizes the key arguments that these participants invoked (see Table 2, Appendix, for an overview of positions in support of the bill).

With few exceptions, the argument proposed by those in favour of the Act – including Cox herself – made reference to harms that vulnerable women and children would suffer as a result of religious arbitration/mediation; to the historical achievements of gender equality that 'Sharia Courts' risked undercutting; and to the supremacy of British law, which needed to be defended against the encroachment of an illiberal legal order.

These concerns were combined in ways that made them consistent with Conservative, Labour, Liberal and independent positions. In the case of Labour, past struggles for emancipation and equality represented a historical background for trade unionist peers (e.g, Baroness Donaghy, HL Deb 19 October 2012 c. 1687-8). Conservatives framed their position around the longer horizon of civilizational achievements and the development of English liberties. As the sole Liberal Democrat in the debate, Lord Carlile (a prominent lawyer) argued that communal morality ought not override individual rights (HL Deb 19 October 2012 c.1689).[14]

Interventions in the debate did not follow the rhetorical tendency of righteous indignation that tends to be present when similar themes are articulated elsewhere. The terms of parliamentary debate in the House of Lords may impose a filter and Cox herself apparently decided to refrain from emphasizing civilizational themes in the interest of building a broad coalition. Intolerable harms inflicted upon women and children, as well as Muslim 'takeover' as an unconscionable scenario, were thematically present. But the clear majority of speakers expressed their concern differently. The exception of Lord Kalms, an important Tory donor with recent inclinations towards UKIP, confirmed the rule as he portrayed the challenge in terms of a civilizational crossroads, the question being 'whether this House and this country have any confidence in their own values' (HL Deb 19 October 2012 c.1702).

While a handful of peers that voiced their support for the Act anticipated problems that would have to be addressed, five speakers introduced doubts. The only Muslim speaker, Baroness Uddin, who had become aware of the bill only shortly before the debate, argued that it would be seen to be singling out Muslims. What was needed to address the issues that were at stake could only be achieved by means of education, rather than legislation (Baroness Uddin, HL Deb 19 October 2012 c.1708). The Lord Bishop of Manchester posed four questions: whether provisions in the bill would not duplicate existing law elsewhere; what the impact of the provisions would be on other arbitration schemes; whether the criminalization of aspects of 'Sharia Courts' would put an effective stop those aspects; and whether the problem of purely religious marriages was being addressed (HL Deb 19 October 2012 c.1694). The Labour spokeswoman added to these queries by suggesting that it would be necessary to liaise with the relevant communities and asked what the Act would do in terms of necessarily local forms of community engagement (Baroness Thornton, HL Deb 19 October 2012 c.1708-10).

The government's response by Lord Gardiner indicated a lack of enthusiasm about the entirety of Cox's bill (HL Deb 19 October 2012 c.1710-4). Dissecting the proposed changes, Gardiner suggested that they attempted to remedy a non-existent problem. Already in the present legal environment, gender discrimination, intimidation and violence were impermissible and any decision that was arrived at on the basis of such injustices would be void. Regarding arbitration, 'religious principles can be applied legally in the national courts context only if both sides have freely agreed to be bound by them' (HL Deb 19 October 2012 c.1711). Arbitration outcomes, moreover, are open to review and a number of domains, including criminal acts and some family matters, were already and would remain beyond arbitration. Regarding the objective to fight coercion, Gardiner submitted that '[i]ncreased

[14] Different from the debate over 'Sharia Courts' in the Canadian province of Ontario the inherent harm of 'culture' and 'groups' did not feature prominently in this debate (see Eisenberg 2006, 7).

awareness requires changes to society, not changes to the law' (HL Deb 19 October 2012 c.1713). While Gardiner had to face a number of critical queries by earlier speakers, his response seemed to indicate that Cox's Act was dead in the water.

This position has more recently been confirmed in response to a question that Kris Hopkins, a Conservative MP who has since been promoted to ministerial rank, put to government. Hopkins raised the issue of 'Sharia Courts' on 23 April 2013 against the background of a BBC programme that had revealed abuses. Referring to Cox's 'exceptional work' (HC Deb 13 April 2013, Column 289WH), he re-iterated some of the demands that were present in her initiative, but added a request for government to ensure that 'all sharia marriages are legally underpinned by a compulsory civil marriage' (ibid).[15] The government's response by Helen Grant highlighted misunderstandings and stressed the supremacy of state law, while arguing that there should be nothing to 'prevent individuals from seeking to regulate their lives through religious beliefs or cultural traditions' (HC Deb 13 April 2013, Column 291WH). Grant thus repeated the position set out by Kimble, also confirming that changes would need to be achieved by 'raising awareness of the existing position under English law' (ibid), not by way of legislation.

Hypothesizing reasons

The British government's reluctance to follow Cox's initiative lends itself to different interpretations. It can be seen in correspondence with clearly stated principles, not least in relation to ambiguous commitments to the notion of the 'Big Society', which includes a preference for local governance, informal conflict-resolution and the creation of a friendly environment for religious actors (see De Hanas et al. 2013). Or it can be viewed in light of conservative qualms about regulatory excess. The apparent de-prioritization of ethnic minority integration as a policy field by the current government – that is, unless security is at stake – might partially explain governmental hesitancy.[16]

The current government has accused its predecessor of harnessing divisions by recognizing Muslim organizations and targeting policies at Muslim communities who also received some funding through changing programmes (Pickles 2013). A paradoxical effect of this departure from Muslim engagement, and the subsumption of previous initiatives into a more general 'faith agenda', is that boundaries that had circumscribed a targeted area of Muslim policy-making have blurred, which increases the potential for spillovers that protects Muslim religious practice. Moreover, the Conservative position can be seen in light of internal divisions between wings of the party. In contrast to Cameron's speech in Munich, the present case would seem to suggest that moderate forces prevailed. Significant moderate actors, including Sayeeda Warsi, Ken Clarke and Dominic Grieve, have since lost their ministerial posts, heightening the prospect for muscular politics in the run-up to the General Election 2015.

In this fluid landscape, a combination of rhetorical, argumentative and environmental obstacles may account for governmental inaction in the case of 'Sharia Courts'. Notably, these obstacles are consistent with the definition of muscular liberalism proposed in section 4, although they reflect important specificities of the debate, its participants and the arguments they strategically deploy. Philosophical tensions inherent in liberalism or a general trend towards liberalism understood as a 'fighting creed' have no conspicuous relevance. Instead, it appears that situational potentials matter as

[15] To back up this request he referred to recommendations by an advocacy group of Muslim women, Inspire, which however has adopted a markedly softer language regarding the issue of civil and religious marriages (http://www.wewillinspire.com/index.php/sections/news-view/news-inspire-statement-on-panoramas-secrets-of-britains-sharia-councils).

[16] See DCLG (2012) for the relative absence of a political programme in the area of minority integration. This absence is framed in contrast to Labour's desire for 'Stalinist 5 year plan[s]' that would dictate people 'what to do and what to think' (Pickles 2013).

well as the absence of benefits that a governmental display of muscularity would have yielded in this case.

Oppression: The gradualist approach that Cox adopted improved her prospects of assembling a coalition but reduced the scope of her claims. The basis for the coalition was acceptance of the principle of religious arbitration and mediation and a focus on abuses. Treating the oppression of women and harms inflicted upon children as a regrettable by-product, rather than a necessary consequence, made a clear difference for the dynamics of the debate in the Lords. While some speakers in support of the Act alleged that abuses were widespread or even unavoidable, within the terms of the debate their claims could only be for reform, rather than proscription. They also ran up against assumptions that were at least implicit in the parliamentary debate: for its adherents Islam provides a legitimate basis for negotiating important issues and that it would be desirable for government to safeguard this possibility.

Sovereignty: There are similar limitations that the terms of the debate imposed on 'takeover' as a resonant theme. First, the scope of the challenge had to be re-framed. In the present debate a distinction had to be drawn between, on the one hand, Islam as a system of thought, which had to be positively acknowledged, and, on the other, the actions and practices of a minority of misguided individuals that were thought of as trying to 'impose sharia'. Second, in the House of Lords, threats had to be empirically substantiated. The need for empirical proof matters where challenges associated with Islam invite comparisons with other faiths. The presence of comparable non-Muslim claims that do not trigger similar anxieties about the supremacy of British law provided for additional protections.[17]

Security: The absence of a tangible security focus in the debate represents another possible reason why a strong governmental response has not been forthcoming. The oppressive potentials of 'Sharia Courts', as well as the risk that a 'parallel legal system' might assert itself, were negotiated separately and not connected to the 'lawlessness' of ethnic enclaves or to 'radicalisation', which tend to be invoked in other circumstances to connect 'hard' (security) and 'soft' (social) issues. The concern with harms to women or to the principle of gender equality could, as Cox (2011) herself suggested, represent 'a very tactical and strategic and useful way of beginning to address this issue' that may well be 'the hardest one to challenge'. But it created a coalition of concerned social policy-makers, not security professionals.

Muscular affect: The display of muscular energy, which in the case of Cameron's interventions occurred in highly publicized settings, did not become relevant in the debate over 'Sharia Courts'. The attempt by Cox and her allies to frame their campaign in muscular terms was hampered by necessities of coalition-building and it is unlikely that the relevant rhetoric would have been easily palatable to allies such as Southall Black Sisters or to Labour peers. More significantly, the constellation of forces in the debate meant that government was in no position to claim agency but, responding to outside pressure, would have been perceived as acquiescing to demands. Dynamics might shift where more powerful actors begin embracing the demands made by *One Law for All* and rally for muscular agency from within government. But it is unclear whether the case of 'Sharia Courts', given the constellation of arguments examined above, holds much prospect for this reversal to occur.

Nonetheless, the outcome is not set in stone and it is at least conceivable that an alternative framing of issues, new coalitions or a different arena of debate will lead to different results. Other episodes, such as the so-called Trojan Horse affair where Muslim educationalists in Birmingham stood accused of extremist infiltration of state schools, show that muscular rhetoric can be accompanied by tangible measures. Although most accusations were revealed as false or overblown, they did not collapse but were shifted from the domain of 'promoting extremism' to 'failing to promote British values', in

[17] Only Lord Kalms strongly disputed the equivalence between Muslim and Jewish claims for accommodation as a matter of (what appear to be) principles (HL Deb 19 October 2012 c.1701-2).

particular failing to promote 'tolerance and harmony between different cultures'. The sticking point became that 'children are not being encouraged to develop tolerant attitudes towards all faiths and all cultures'. This recent appearance of a request for a 'more muscular [approach] in promoting British values' (Cameron, 2014) was accompanied by a number of sanctions imposed on the concerned educationalists and school trusts. Beyond this immediate 'crackdown', the more long-term policies that government began propagating in the pursuit of liberal 'British values' – reinforcing history education and introducing new language requirements – seem relatively vacuous. This should not come as a surprise as the benefit of muscular liberalism, this paper has argued, lies in the display of sovereign assertiveness for which the implementation of liberal ideas offers nothing more and nothing less than a conduit.

Conclusion

The purpose of the paper was to explore the phenomenon of muscular liberalism and to work towards a definition that allows considering its political functions and situational potentials. It has been my contention that the 'stimulus-response model', which views the orientation as a response to the (allegedly) illiberal presence of Muslims in Europe, is simplistic and unconvincing. Gutsiness and muscularity have indeed become popular elements in proclamations about populations that are said to be problematically illiberal. Although new rhetorics are significant, the suggestion that recent changes amount to a paradigmatic shift in response to excessive claims for accommodation or to aspects of Muslim religiosity, needs to be challenged. There are considerable discontinuities and, rather than illuminating, the reference to liberal norms distracts from the contingency of political choices and discursive effects. It is the mutability of liberal ideas, which in practice overlap with other considerations, that should be of interest. As Asad (2013, 20) rightly suggests, it is

> the contradictions and ambiguities in the language of liberalism that make the public debates among self-styled liberals and with their 'illiberal' opponents possible. Liberalism thus provides moderns with a vocabulary that can cover a multitude of sins – and virtues.

My interest in accounting for governmental inaction in one particular instance should not be taken to mean that the turn towards muscular rhetoric has no effects. But these are likely to be varied, situational and political – not the result of tensions inherent in liberal states' encounter with putatively illiberal outsiders. More to the point, the integrity of liberal order has become a domain where threats posed by such outsiders serve to fortify a liberal identity on the inside. The alleged fragility of this order, its dependence on particular practices, attitudes and worldviews, has become a background for the consideration of risky minority populations. Knowledge that is produced in this context may well filter into state practice, including into legislation, policy-making, organisational procedures and administrative practices that are adopted where muscular rhetoric circulates. Although Muslims are targeted, it is not at all clear that they are what triggers this response, and the appeal of the muscular stance, I have argued, lies in the display of sovereign assertiveness and its affective benefits. Different populations and groups have historically occupied the place of the illiberal antagonist, and the comparative study of how they have been engaged becomes an urgent task in the context of the unique challenge that Muslims are said to pose today.

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Appendix

Table 1: Major events reported in connection with 'shari'a' references in 2013

Trigger	Month
'Muslim Patrol': intimidation of night-time pedestrians by small group of Muslim radicals	January (event) / December (trial)
Report on 'Sharia Courts' on the BBC's Panorama programme	April
Report on 'hate preachers' and gender segregation at British universities	May
Murder of Lee Rigby by two Muslim extremists; subsequent English Defence League protests	May
Veil in Courts: case of a Rebekah Dawson granted the *niqab* (except when addressing jury)	September
Shari'a finance: 'World Economic Islamic Forum' in London	October
Anjem Choudary invited to participate in debate on the BBC	December

Table 2: Supporters of the Arbitration and Mediation Services (Equality) Bill (2012, Second Reading, HoL)

Peer	**Political affiliation and background**	**Themes raised**	**Hansard column**
Lord Eden of Winton	Conservative politician	harm of discrimination; supremacy of law: 'guard against the encroachment of practices hostile to basic concepts of British justice' (1686); and: 'preserving the very foundation of our civilisation, namely equality of treatment under the law'	1687
Baroness Donaghy	Labour, trade unionist	women's rights: historical achievements: 'cannot allow the clock to be turned back' (reference to earlier struggles against domestic abuse); BUT: important not to single out Muslims	1687-8
Lord Carlile of Berriew	Liberal Democrat, barrister and legal expert	difficulties around 'informed consent' and ignorance of women that subject themselves to arbitration (not knowing their legal entitlements in the courts); against the tribunals straying into areas beyond their concern	1688-9
Baroness O'Loan	Crossbencher, solicitor and Police Ombudsman	historical achievements; difficulties affecting women from Muslim communities, possible lack of understanding and possibility of coercion	1690-2
Lord Singh of Wimbledon	Crossbencher, journalist, Sikh background	significance of 'culture' as a positive and negative; problem the bill addresses is one of distortion – not reflecting Muslim mainstream; 'it will have the support of many people of all faiths, those in secular society and, I hope, from all political parties in a common quest for a fairer and more cohesive society'	1695-6
Lord Cormack	Conservative, politician	supremacy of the law: 'I do not like to see the law of my country sidestepped, overridden ignored or, even worse, subverted' (1966)	1966-8
Baroness Turner of	Labour, trade unionist,	vulnerability of women and children; supremacy of the law; historical achievements: 'We will not have these	1698-1700

Camden	committed secularist	advances undermined by the establishment of some form of parallel law at a much lower level'	
Lord Williamson of Horton	Crossbencher, former civil servant	vulnerability of women; historical achievements	1700-1
Lord Kalms	Unaffiliated, tendencies towards UKIP	Supremacy of the law; widespread abuses and overreach of 'Sharia Courts' already happening; gender equality; strong defence of 'our values'; casting doubt on the voluntariness of participation in arbitration/mediation because women live in areas that are 'distinctly cut-off, ethnic and religious enclaves' (1703)	1701-3
Lord Swinfen	Conservative, hereditary peer	Brief intervention: pointing in particular to the number of religious marriages that have no civil backing	1703-4
Baroness Deech	Crossbencher, academic	Insistence on fundamental rights; protection of vulnerable women and children. But: highlighting problem of demarcating 'good mediation' from 'bad arbitration'	1704-6

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