LET SLEEPING DOGS LIE!
NON-CHRISTIAN RELIGIOUS MINORITIES
IN SWITZERLAND TODAY

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Introduction

IN Switzerland, as in most European countries, non-Christian religious communities
are growing in size. For over two decades, Swiss citizens have had to cope with
an increasing number of people with other faiths and ways of life. Swiss institu-
tions and the Swiss public are increasingly confronted with the demands of minor-
ity groups—individually and/or collectively—for acknowledgement of their rights
to particular cultural-religious forms and to their own social goals. Swiss institu-
tions and the value systems they represent are therefore compelled to respond to
pressures which are new to them. On the other hand, members of immigrant
minorities strive for the recognition of particular objectives, which many members
of the 'host' society consider incompatible with established notions. Despite the
bewilderment expressed by some citizens, partly in the form of forceful reactions
to minority action, one thing is certain: collective demands[1] and the politics of
identity are, by and large, acquiring legitimacy, at least in the sense that they are
being considered (for instance, by government bodies), even if, more often than
not, they continue to cause tensions and embarrassment. Consequently, new, and

1. On collective categories in the context of minority accommodation, see especially the papers
in Shapiro and Kymlicka 1997 and Brölmann *et al.* 1993.

also not so new processes of minority accommodation within national societies are tending to reshape ingrained notions of justice.[2]

The endeavours of religious minorities to pursue their goals and objectives publicly have an impact on the intersections of major societal sub-systems, such as judicial, educational, religious, and civic institutions, thus casting doubt on traditional central value systems and questioning the validity of established procedures. This is shown, for example, by the small avalanche of articles that followed the Swiss Supreme Court's verdict regarding dispensation from swimming lessons for a Muslim schoolgirl (see below). The demands put on Swiss society and its infrastructure are by no means unique. On the contrary, similar social dynamics are being faced by other societies in Europe, as well as in other countries with high rates of immigration.[3]

It is not only in Switzerland that citizens are also increasingly confronted with an ever-expanding industry of symbols, production of which is aimed at gaining attention within the public sphere. Very often, these symbols are identity markers providing for subtle, and sometimes not so subtle networks of dividing lines within and across societies. Such industrious endeavours to define particular cultural-religious goals and to promote them in the public sphere show, among other things, that cultures can build bridges as well as erect formidable barriers between groups of people (Pfaff-Czarnecka 1996). The members of the core societies shape and reshape their cultural politics as much as the immigrants—seeking mutual accommodation, but also being prepared to demonstrate dissent (Werbner 1997). Such negotiations reveal the processual nature of such accommodation, which either render the ethnic boundaries porous or firmly close them.[4] Furthermore, in such moments we witness the striking diversity in the accommodation of difference when we compare recent developments within Western societies alone.[5]

This article is based on ongoing research into religious minorities in Switzerland, seeking to analyse the claims to collective rights put forward by members of non-Christian religious groups and to understand the logics of their collective

2. This type of debate is entirely new in the Swiss context. On related debates in other Western countries, see especially Kymlicka 1995 and, of course, the discussion surrounding Charles Taylor's concept of a 'politics of recognition' in Gutmann 1992.

3. As documented for England by, for example, Parekh 1996, Poulter 1998, and Vertovec 1996a, 1996b, 1996c; for France by Kepel 1993 and Amiraux 1995; and for Germany by Amiraux 1997 and Leggewie 1993; etc.

4. Even though Barth (1969) is invariably quoted wherever the issue of 'ethnic boundaries' arises, his illuminating remarks on the shifting nature of these boundaries are hardly ever taken up. At the same time, Barth's insistence upon the dynamics within ethnic boundaries has unfortunately diverted the attention of scholars eager not to fall into the primordialist trap of social dynamics within collectivities.

5. As documented in the collection by Vertovec and Peach (1997), as well as in that by Bauböck *et al.* (1996).

action. It takes up the currently ubiquitous theme of accommodation within multicultural societies, stressing the dynamic and changing character of negotiations between the state, the different sections of Swiss society, and the minorities. Unlike other Western countries, in Switzerland religious minorities are only now—and increasingly—becoming visible within the public sphere in which new kinds of objectives are being put forward by Muslims, Hindus, and Buddhists. Swiss experiences with the increase in public minority action during the last decade reveal minorities' rather low profile in addressing the Swiss public. Given the relative scarcity of attempts to address state institutions and/or the public sphere, one cannot help but ask why, so far, members of non-Christian minorities in Switzerland have been so docile in their negotiations.

As will be shown below, members of foreign faiths in Switzerland have been denied a wide range of rights and entitlements which, in other parts of the Western world, have been considered if not self-evident, then at least acceptable or as a public issue to be debated (France provides the most striking exception). The question is, then, why religious minorities in Switzerland have so far hardly addressed Swiss legal and political institutions with similar demands, as has been the case in, for instance, Great Britain and Canada. So far in Switzerland, it has been possible to manage difference in such a way as to accommodate diversity within the existing legal, political, and social framework, endorsing the principles of equality and individualism while not having to respond to minority pressures. For decades, the entire Western world has been facing the multiculturalist challenge, more often than not endorsing special provisions for minorities and partly succumbing to the need to reformulate at least some of the existing legal norms. In order to find an answer to the peculiarities of minority accommodation in Switzerland one needs to examine, among other things, the social environment of religious minorities' activities in the country. By linking dynamics within national frameworks with processes of minority mobilization, we immediately touch upon a very embattled terrain for negotiations, namely that involving the public–private divide within state societies.

It is not surprising that growing numbers of immigrant minorities who are increasingly becoming better acquainted with their new political and social environment should take upon themselves the task of formulating their objectives and making them public. In view of the manifold attempts to do so by minorities in other Western countries, it is also not a coincidence that encouraging examples of successful action emerge, or that Swiss minorities also find themselves under some pressure to follow the examples set in other countries. The public character of these endeavours manifests itself in several ways: within and among minorities— who scrutinize their own actions—within international networks, and at the interfaces between the minorities on the one hand and the actors and institutions of the 'host' society on the other.

The Public–Private Divide in Minority Accommodation

Within current debates on multicultural accommodation, the most striking issues appear to be the many forms of trespass between the public and private domains. It goes without saying, first, that the activities of religious minority groups pertain to needs and objectives which are largely confined to the private domain, though this is also subject to state interference. At the same time, some of the religious projects pursued within the 'alien territory' can only be solved or accommodated when they involve state or public institutions. In such endeavours, the public–private divide does not merely appear as an ordering principle, but above all as a very embattled terrain. Secondly, in Switzerland as in other Western countries, the public spheres are increasingly approached by collective actors pursuing collective goals and/or striving to influence the distribution of collective goods. The problem of collective rights within national societies nowadays confronts many Western polities with many practical and ideological problems. In many cases collective actors are involved in struggles for rights, struggles combating the lack of dignity they experience in the 'host' society (see Taylor 1992), as well as seeking the satisfaction of common goals through collective action. In such struggles for recognition, collective experiences of violated integrity and the quest to find preventive and regulatory norms are articulated in a variety of ways. Hence, since needs and objectives pertain to cultural-religious forms, public spheres are necessarily confronted with collective categories. However, Swiss procedures and institutions are strongly geared towards individualist notions, especially when it comes to accommodating difference brought into the country by immigrants. Indeed, among the major problems that minorities currently face is the attempt by public authorities to keep collective religious objectives out of the public domain by pointing to the primacy of an individualist framework.

So far, the Swiss legal-political system has successfully resisted pressures from 'alien minorities' for the creation of binding legal categories. Still, there is a widely perceived need among minorities to discuss the requirements for successful accommodation. Certainly collective rights exist in Switzerland with regard to political units, to property held by collectivities, and in the form of collective provisions on linguistic grounds (on the distinction between 'indigenous' [i.e. Swiss] and 'foreign' minorities in the Swiss context, see Wicker 1997); but the provisions granted to the 'indigenous' minorities (cantons, the communes as administrative units, speakers of Romance languages, namely French, Italian, and Rhaeto-Romansch) are not at issue here. Instead I am focusing on the 'alien' minorities, arguing that so far, in most cases, the collective categories they have brought into Switzerland can be reconciled with the individualist framework of the legal system, though at the expense of immigrant minorities not being able to observe some of their cultural practices (see below).

The specificities of the Swiss case become apparent especially when we analyse the potential for conflict and the solutions applicable here in a comparative perspective—that is, when comparing the modes of action and models underlying

the state's measures in other countries. I also suggest that we examine specific measures to accommodate minorities in comparison with other national contexts because in recent decades different national solutions (more often than not partial ones) have emerged regarding the accommodation of minorities which cannot simply be replicated in other national contexts. The idea here is that particular solutions which have proven successful in some countries may or may not hold under circumstances of a different national setting. Indeed, as I shall argue below, we are today witnessing a striking variety of national practices regarding ways of dealing with minorities in both private and public spheres. In order to outline these major differences in practices of accommodation, let me introduce the oversimplified but useful distinction between the public–political and the private domains. I draw here upon Rex's (1986) concept of two domains, later adopted by Wicker (1997) in relation to the Swiss national framework. Rex presents four basic types of society operating within the distinction 'public–private', seeking to establish how the two principles of universalism and particularism can coexist, though possibly excluding one another in different social settings.

The main dimensions of these two principles have been widely discussed.[6] The universalist principle places a high value on tolerance, expressed in terms of individualism and equality, and endorsing the most common kinds of civic freedoms, such as the religious freedom (including the right to pursue religious cults), freedom of organization, and freedom of expression. In this case, the legal norms, institutions, and procedures have a holistic outlook: organizations, normative orientations, and justifications are geared towards the total social body, fitting the minorities, or attempting to do so, into the received individualist framework. However, as the discussion below will indicate, this approach is nowadays clearly under pressure from legitimate minority demands which put the universalist–individualist framework under great pressure.

The particularist principle endorses the model of collective protection and support of minorities, as formulated especially by Taylor (1992). By paying special attention to identity politics and endorsing a rather fragmented view of national societies divided into minority communities, Taylor implicitly argues for a somewhat static, homogenous notion of culture and identity, as well as for restrictions upon individual freedom within communities. This predilection for collective solutions probably stems from the specific Canadian context, with its more or less clear-cut spatial distributional patterns of linguistically differentiated populations ('indigenous minorities' providing a model of accommodation for immigrant minorities who eventually acquire Canadian citizenship). Many views have been put forward opposing this position, of which two stand out. The cultural argument contests the idea of clear-cut cultural distinctions producing single identities: Taylor's critics stress multiplicity and hybridity as well as the processual character of cultures which are opposed, for instance, to bureaucratic categories

6. Again, the collection in Gutmann 1992, especially its revised and expanded update (1994, including Habermas's response), provides the most interesting point of departure.

geared towards clear-cut distinctions. The political argument draws our attention to the strong probability that practices within the state and within civil society dedicated to maintaining collective borders are likely to buttress particularist interests rather than enhance solidary structures across the dividing lines within a given society.

Taylor's particularist approach displays a rigidity which suggests that the accommodation of minorities necessarily requires a departure from the established policies of many countries. In many national contexts, therefore, this would be an impossible solution. That accommodating difference within state societies does not necessarily entail the creation of divisive distinctions within pre-existing flexible arrangements has been forcefully argued by Kymlicka (1996). The Canadian experience informs his approach too, but he rejects Taylor's thesis regarding the primacy of collective over individual rights. In Kymlicka's significantly more moderate position the question of what is to be understood as a 'collective minority right' is seen as having various possibilities. Among the accommodation measures proposed are such far-reaching solutions as decentralization, autonomy (granted, for instance, on territorial grounds), and consociational models of representation structuring the public-political domain.[7]

Let us come back to the four types designated by Rex as discussed by Wicker (1997: 148):

> Type A guarantees equal opportunity (universalism) in the public-political domain and allows for multiculturalism (particularism) in the private domain; Type B imposes the equality principle in both the public-political and the private domain and leads to monoculture; Type C allows for ethnic differences and ethnic lobbying in the public-political domain and combines these with multiculturalism in the private domain; Type D, finally, imposes a monoculture in the private but not in the public-political.

Nowadays, the assimilationist Type B in Rex's scheme appears in Western contexts as an impossible option. However, as Wicker and many other authors argue, in the first half of this century, Switzerland underwent a unifying nation-building process strongly geared to assimilationist policies. Given Swiss multiculturalism in the form of the multilingual and multireligious character of Swiss society, this statement must sound surprising. However, during this period, internal cultural differences were played down, while Swiss unity was assumed and promoted by defining the Swiss national character in terms of uniform civil rights and, above all, civic duties—that is, through the creation of an effective instrument making not only Swiss citizens but also foreigners assimilate to Swiss norms and values. We encounter here the genuine Swiss notion of a *Willensnation* ('nation of will'), which highlights adherence to procedural elements rather than to a putative unity provided by cultural elements. Among the major agencies aiming at

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7. For an excellent overview of prevailing collective solutions, see Levy 1997.

such adjustments and their promotion, which reached deeply into the private lives of the citizens, were the federal administration, the army (see Wicker ibid.: 149), and the system of education.

Some elements of Type A have persisted in Switzerland, of course, given the linguistic and religious diversity of the country. From the middle of this century onwards, not only was the private domain freed from the imperative of uniformity, the public-political domain also gradually adopted elements allowing for particularist solutions. An important step here was the new language article in the Constitution, granted, however, to citizens, or more precisely, to citizens belonging to the 'indigenous' minorities, not to immigrant 'aliens'. Nevertheless, from the 1960s onwards, Switzerland experienced an influx of immigrants, either political refugees or labourers—the latter forming a clear majority. National ideology shifted at the same time. The assimilationist imperative gave way to the notion of 'integration'. Foreign immigrants were made to comply with rules and regulations within the socio-economic domain (labour market, social insurance), but their religions, languages, and customs were given more recognition, as long as they were confined to the private domain.

Thus, since the 1960s, Switzerland has undergone a process of moving away from the universalist formula towards providing more and more space for differences within the private domain. In the course of the last decade, this opening up has become increasingly noticed by the wider public, as 'alien' private forms of Muslim, Hindu, and Buddhist immigrants (and also some Swiss converts) have become more and more visible. Let us not forget that, in course of time, members of minority religious communities will gradually become Swiss citizens, thus acquiring the means to exert their own political voice, depending on their numbers, their distribution throughout the country, incentives, and organizational skills. Therefore, a gradual process away from Type B towards Type C, via Type A, seems to be on the way in Switzerland. We can expect that Switzerland will undergo a process towards modes of accommodation similar to those in Canada or, in a slightly less accentuated form, in Great Britain. This process would basically consist in moving away from strict assimilationist policies within a unifying national framework, through the current politics of integration, towards a model of multicultural accommodation, asserting collective identities, using quotas, embracing striking cultural measures (striking by the standards of the 'host' society), and designing many particular provisions for collectivities. We could even go one step further and expect that countries confronted with an increasing influx of religious groups such as Muslims, Hindus, or Buddhists would gradually move away from assimilationist policies towards a politics-of-recognition model.

There are simple reasons why this prediction could hold. With growing numbers of 'aliens' eventually acquiring Swiss citizenship, electorates are being formed of diverse cultural backgrounds, meaning that diverse political interests are likely to form a process that may eventually bring about an increasingly well-designed organization of difference, leading to shifting power structures, at least at the local level. Every day one can observe an increase in the organizational

capacities of transnational diasporas (see, for example, Cohen 1997) gaining and exchanging information about developments in different countries in acknowledging and accommodating various types of demands. Disposing of such strategic information can place pressures on national and local governments. Moreover, members of particular religious minorities can themselves come under pressure to assert their rights within the national societies of the 'host' countries when other countries are more advanced in accommodating difference. The mutual exchanges—of information, of encouragement, of organizational skills—within religious diasporas suggest that we should anticipate a uniform process of minority formation. However, it is doubtful whether the quite uniform demands of religious minorities will eventually lead to uniform solutions in the 'host' countries. Though it is difficult to predict future developments, right now we face a rather striking diversity in respect of multicultural accommodation in different Western countries. For reasons discussed below, it is certainly not possible to perceive national styles of accommodation in various Western countries in terms of a linear process of transition from Type B to Type C.

Indeed, when observing the ways in which difference is dealt with in Western countries, the variety of accommodation measures is striking. The reason, in my view, is that the two very distinct paradigms of accommodation discerned above—the universalist and the particularistic model—are significantly shaped by existing national modes of integration, consisting of legal provisions, the structure of political organization, and institutional settings, as well as how a national society defines its cohesion. Therefore, modes of accommodation materialize themselves in a multifaceted form, depending on the opportunity structures (a concept used by Ireland 1994) that exist within any national setting. By 'opportunity structures' I mean the institutional channels responding to the values and norms that are endorsed within a polity. Chances to integrate and to gain recognition strongly depend upon the opportunities provided by the structure of the political system and of public institutions. These structures may also affect the scope of assistance the minorities can obtain in seeking greater participation and in striving to promote their sectional interests within the social setting. Opportunity structures are determined by (a) the legal structure and the legal tradition; (b) the complex body of policies, rules, and organizational practices; (c) the political culture, that is, the cultural bias put forward by resourceful sections of a society towards the political system, containing elements strongly related to cultural orientations in other domains of social life, and including salient definitions of what constitutes the particular nation; and (d) modes of interaction and communication within civil society that operate in the public and private domains. How these structures affect minority action will become apparent after a short discussion of four cases of relevance to Switzerland.

Transcending the Private–Public Divide: Claims to Collective Accommodation of Minority Demands

Given the idea that for decades most foreigners were expected to make themselves useful in the 'host' countries but otherwise keep quiet, recent public statements by minorities caught the attention of the Swiss public.[8] In this section, the main instances of minority demands put forward in Switzerland will be discussed in order to assess the kinds of stresses or conflicts their public-political domain is currently facing. Admittedly, this overview only relates to cases which have reached the public domain: many more grievances exist in private. What has not yet become a public issue can be indicated by the scope of minority activity in other countries, such as Great Britain and Canada. Among the most striking demands in those countries, unthinkable as yet in the Swiss context, have been the establishment of publicly funded Muslim schools. The Jewish community in Switzerland, which has been granted the right to separate religious schools, has never received financial support, and the community itself therefore has to support poor families. So far, there have been no demands from minorities for the public recognition of specific religious symbols such as lighting the mosques and allowing the muezzin to call to prayer. There have also been no attempts to achieve the legal recognition of collectivities as ethnic groups. Hence, no claims for protection against discrimination by the state on the grounds of belonging to a particular group (only granted in Switzerland on an individual basis) can be made. For instance, in England, the Law Lords established in 1983 that Sikhs are an ethnic group and thus fall under the protection of the 1976 Race Relations Act. Notwithstanding the fact that many goals and grievances have been kept from the Swiss public so far, those demands which have been placed in the public domain have created deep conflicts within the public and tensions within public institutions in all four sets of circumstances considered here.

The first of these circumstances relates to the accommodation of specific religious observances, such as food rules and the requirement to pray within institutional settings. These issues relate to realizing the right to religious freedom, which may conflict with specific organizational structures in institutions such as the workplace, schools, and prisons. One issue here is the flexibility of work time (e.g. Ramadan, breaks for prayer, holidays on ritual occasions) and special menus in canteens. In such cases, interestingly, existing legal provisions and actual practice differ: it often happens that members of minorities do not even exploit existing provisions. It seems that there is still little knowledge of what can be enforced. So far, wherever new cases come up, the authorities act quickly: in prisons, for instance, allowing Friday prayers for Muslims, rooms for ecumenical worship, and providing special foods, in line with the principle of religious tolerance. Such practices of accommodation take collective demands into consider-

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8. Even in England, however, a country with long-standing exposure to minority politics, their public incorporation is a quite new phenomenon (see especially Vertovec 1996a).

ation, but they are individually oriented, displaying a rather high degree of flexibility in accommodating difference. Obviously, this group of minority demands does not seriously conflict with the pre-existing institutional settings.

The second set of issues is more problematic. Certain cultural-religious practices, such as ritual methods of slaughtering animals (shedding of blood) or funeral rites (the use of cloth rather than coffins), conflict with federal law (Article 125 bis of the Swiss Constitution) and/or individual cantonal prescriptions. So far, however, members of minorities have largely accommodated themselves to binding regulations and practices. Thus, for instance, Jews and Muslims import ritually acceptable meat from other countries. This causes uneasiness among many Swiss legal scientists and practitioners, but no claims have been brought before the courts by members of these minorities in recent years. Muslims usually accept the prohibition of cloth for burying the dead, as well as the requirement to wait 48 hours before burial. Muslims who have entered into negotiations in order to set up Muslim cemeteries usually also comply with the rule to remove a grave after 25 years, which clearly conflicts with their notion of the eternity of the grave. On the other hand, Jews who are required to bury their dead before the onset of the sabbath normally obtain permission to do so on grounds of religious tolerance, which are endorsed by the authorities. Hence, this group of cases reveals some flexibility in mutual accommodation. However, members of minorities have shown much more flexibility so far, removing from the authorities the burden of providing solutions more suited to the former.

The third type of case relates to claims that public land be used for the erection of religious structures such as cemeteries, temples, monasteries, or mosques. It must be stressed from the outset that claims put forward by religious minorities thus far have not been geared towards receiving public funds or the grant of public property, but rather to acquiring permission to erect structures, using funds collected by the religious communities themselves. Up to now, claims regarding the use of public land for religious purposes have created fierce public debates and necessitated responses from municipal authorities, political parties, and public commissions. While public debates highlight issues of local as well as national interest, institutional negotiations mainly take place at the cantonal, municipal, or community levels. Such cases are especially intriguing in light of the differing constellations within local interest groups, which oppose or favour such endeavours.

The emerging problems are best examined by looking at the creation of a Muslim cemetery in Zurich, repeatedly requested by different Muslim organizations. From the very beginning, these organizations have referred to the existence of Jewish cemeteries as constituting a precedent. However, Swiss Jewish communities have borne all the costs themselves so far, including the purchase of land from municipalities. Currently in Switzerland, only Muslims in Geneva have their own cemetery. Recently, an agreement was reached with the authorities in Berne, but the cemetery has not yet been created. Over ninety per cent of deceased in the

Muslim community are shipped to their countries of origin for burial, which places many hardships upon relatives.

After initial reluctance, the municipal government of the city of Zurich came to the conclusion that without a Muslim cemetery, the minority's freedom of religious observance was being threatened. Making Muslims send their dead back home, the authorities argued, was acting against the principle of a dignified burial for all (Raselli 1996). But there was a problem relating to Swiss legal norms concerning deaths. Since 1874, public institutions have been in charge of burying the dead, ensuring that everybody finds a place at a public cemetery, that burials are dignified (*schickliche Beerdigung*), and generally that equal treatment for all deceased is observed. But what does equal treatment mean? When it comes to allotting plots in Swiss cemeteries, the graves are dug in order of registration of the dead person, one after the other in a row. From the point of view of the authorities, the principle of 'burial in a row' highlights equality, not discrimination. However, this particular principle of equality conflicts with the principle of religious freedom. The Muslim prescription that the dead should face Mecca is in conflict with the Swiss authorities' idea of maintaining order.

When the claims of Muslim organizations began reaching public institutions and the public sphere generally over the last three years, the authorities acted quickly. Local bodies in Zurich were first faced with the cantonal ban against dividing cemeteries into separate sections—an old provision against discrimination. This was solved by allotting the Muslim committee a plot of land just next to one of the public cemeteries in the city, on the condition that the Muslim organizations would pay for it. Another provision was that all people claiming to be Muslim could be buried there; here the Swiss authorities were using their knowledge of the tensions existing between the various Muslim communities—an issue otherwise not known to the public. Up to the present time, the Muslims of Zurich have still been unable to collect the necessary funds.

Several principles are in conflict in this case. Three of them are of special interest in the context of this article. First, in Zurich collective demands collide not only with individualist notions, but also with a particular notion of equality. The problematic regulation has historical roots: it was designed a hundred years ago in order to reverse a trend towards separating people of different faiths, in this case Protestants and Catholics. The Muslim wish for separate provision means reversing that decision—that a minority must not be separated against its will. Hence, some of the problems Swiss Muslims are confronted with do not arise from provisions drawn up specifically against their aims. Rather, the prevailing legal and institutional settings, geared towards equality and individual freedom within the 'host' society itself, are ill-suited to the special requirements introduced into Switzerland by immigrant minorities. There is some irony in the fact that Muslims in Switzerland today endure hardships relating to rules and regulations which were originally designed to accommodate successfully the various minorities considered 'indigenous'. The second issue is currently emerging in legal debates: is the provision to ensure religious freedom by allowing exemption from the requirement

to bury the dead in rows a case of granting a privilege to collectivities? Those lawyers who endorse the granting of a special provision to Muslims seek to justify it in terms of protection from discrimination on individual grounds, not of granting privileges to collectivities.

One further, very broad, implication that arose during these debates was a general trend in the argument put forward by minorities. This runs as follows: death cannot be left entirely to the state authorities. Niccolo Raselli, a judge in the Supreme Court, formulated this as follows: in order to ensure freedom of religion, it is enough that, in any community, just one cemetery is provided and managed by the communal and/or municipal bodies. The need for further cemeteries can be managed privately. Minorities tend to consider the state's interference in the religious sphere as unwanted, although the state's obligation to ensure the protection of religious freedom is widely acknowledged. Hence, another interesting question arises from this debate: does the provision to ensure religious freedom by granting exemptions (e.g. from burying the dead in rows) mean that a privilege is being granted? Again, also in this case, the major purpose of the discussion is to establish whether allowing religious minorities to set up their own cemeteries is to be interpreted in terms of minority protection or as granting a privilege to a religious collectivity.

It is the last group of cases that puts individualist orientations under the greatest stress. To this group belongs, first of all, the prescription to wear a helmet while riding on a motorcycle. The Swiss Supreme Court ruled that Sikhs must wear helmets, arguing that exchanging a turban for a helmet does not entail undue hardship. Another case, concerning whether a girl from a Turkish Islamic community could be excused swimming lessons in a coeducational class, proved more complicated because it touched, first, upon conflicting values inherent in the constitution (gender equality versus freedom of religion) and, secondly, on norms and prescriptions within the educational system. What both cases have in common is the fact that wearing a helmet and attending schools approved by the state is considered a civic duty in Switzerland, something that is loaded with connotations. The Supreme Court's ruling, which upheld the exemption, was justified by arguing that not attending swimming lessons would not seriously affect the girl's educational course and would be a minor failing in her performance of her civic duties.

This course of argument was pragmatic, seeking to adapt existing provisions to new circumstances and trying to incorporate them within the existing body of law. The problem is that the major issue here was sidestepped—that is, that a person can be exempted from performing civic duties on religious grounds. Jurists commenting upon this case have gone to great pains to assess the importance of the swimming lessons (see especially Hangartner 1994, Wyss 1994). However, a broader context to this problem is provided by the fact that members of the Jewish community may be exempted from attending school on Saturdays, a practice that would fall under the rubric of a minor exemption from civic duties. The comparison has not (yet?) entered the public debate. One very good excuse, though it is no more than an excuse, for considering these two examples separately is that

exempting Jews from school has been managed so far only within cantonal rules and regulations (case of exemption), whereas the case of the swimming lessons was taken to the Supreme Court on the grounds that religious freedom was being threatened. Should this debate come into the open, exemption from civic duties on religious grounds will certainly come close to what can be described as the collective right of 'foreign minorities' in the Swiss context. However, what is important to note here is that, contrary to collective rights granted, for instance, in terms of political autonomy, exemptions usually refer to just one particular dimension in the life of a minority (see, for example, Levy 1997). We must therefore acknowledge a crucial distinction between collective rights which 'carve collectivities out of societies', and collective rights which relate to only one aspect of the private/ public life of minorities, the members of which are otherwise incorporated into society according to individualist principles.

The wide response that the case of dispensation from swimming lessons found in the Swiss mass media indicates the future potential for conflict within the public sphere. Critics of the Supreme Court's verdict have adopted cultural shortcuts. Their arguments equate gender segregation with female oppression, and adherence to traditional norms (as displayed by the father of the girl) with fundamentalism. Here we have an example of the practice of *othering* religious minorities and attributing to them (pejorative) collective identities.

Religious Minorities' Demands and Swiss Opportunity Structures

The above examples indicate that non-Christian religious minorities living in Switzerland can identify needs regarding their religious practices which they would consider to be threatened by the Swiss legal framework. Though still keeping a low profile, they are increasingly addressing their claims, goals, and grievances to Swiss public and state institutions. Minority action therefore calls for re-adjustments within the Swiss polity. Earlier, I suggested that all over the Western world, governments and citizens in 'host' societies usually orient themselves by placing particular stress on one of two incorporation models when coping with the multicultural challenge. But these orientations are also shaped by the established modes of accommodation or incorporation prevailing in each respective society. National modes of integration consist of legal provisions, the institutional settings designed to accommodate foreigners, the dynamics within civil society, and the cultural orientations of the polity, as well as the means whereby a national society defines and maintains its cohesion. Let us therefore examine how the strong Swiss emphasis upon the universalist model of accommodation is supported by established opportunity structures, and how these structures shape the orientations of the minority population.

The legal system

The brief discussion of the four examples given above shows that members of religious minorities increasingly challenge Swiss principles of tolerance, religious freedom, and individualism, questioning existing endorsements of equality through their actions. With these new types of religious claim, conflicts of value emerge within the Swiss legal system—conflicts, in other words, between notions of equality and the strong emphasis upon religious freedom: religious freedom in conflict with the norm of gender equality, or religious freedom and duties in conflict with the highly valued notion of civic duties. Switzerland may be an extreme but not unique example of how complex, differentiated, and layered the legal and institutional system—through which the universalist/individualist principle is endorsed—can be. Due to the far-reaching political and legal autonomy of the twenty-six cantons, minority action may touch upon legislation and procedures at federal, cantonal, or even communal levels. In the short run, this complexity seems to enhance the necessary flexibility in dealing with new types of demands, while possibly temporarily postponing important debates and decisions. The case of the Muslim girl's dispensation from swimming lessons that was decided by the Supreme Court of Switzerland has—not surprisingly—provoked a storm of public criticism, but also made heard the many voices which were supporting the verdict. Despite substantial public disapproval, the verdict was enforced; a fundamental decision was made. At the same time, the dispensation of Jewish children wishing to stay away from school on Saturdays continues to be dealt with on a case-by-case basis by the cantonal bodies.

Regulations impeding religious groups from performing ritual practices have a historical logic of their own. Historical processes are ingrained in the legal structure. As the example of the cemetery indicates, most of the regulations currently impeding the performance of such practices came into being prior to the influx of 'foreign' faiths into the country. If, for example, the regulation against the division of cemeteries were to be abolished in the canton of Zurich, no rule endorsing collective provisions regarding burials would be necessary. In using the space allotted to them within public cemeteries, Muslims would again be taking advantage of the universal principle of tolerance. Sometimes, as in this case of Muslim cemeteries, legal provisions regarding the 'indigenous' minorities, such as non-discrimination between Catholics and Protestants in public cemeteries, may prevent special solutions being created for 'alien' minorities. Here, Switzerland clearly lacks the century-long experience in accommodating difference shared by many other Western countries, for instance, Great Britain and Austria. And what about the long-established Jewish diaspora? Jewish communities, which have been living on Swiss territory for centuries, are a special case. Granted political rights only comparatively recently (in 1874; but cf. Picard 1994: 34f.), and only under international pressure, the special requirements of Jewish citizens have either been accommodated at the cantonal level (in respect of the education system) or communal level (in respect of creating cemeteries), or opposed at the federal level (in

respect of animal slaughter through the shedding of blood). The most common approach to their particular needs has been to tolerate them pragmatically rather than recognize them officially. Few attempts at the public recognition of Jewish objectives have been recorded in Swiss history.

Policies geared towards immigrants and integration practices

The low profile of members of minorities is certainly reinforced by policies which accord the majority of immigrants a low status and which are especially restrictive (in comparison to other Western countries) when it comes to acquiring Swiss citizenship and, subsequently, political rights. Another impeding factor is the significant gap between insiders (with Swiss passports) and outsiders (those without one) living on Swiss territory. The high degree of Swiss decentralization has allowed 'indigenous' Swiss minorities (defined through their language) to acquire a substantial basis for preserving their own identity and pursuing their aims through the formal political process. Since linguistic boundaries largely coincide with territorial units—and since, due to the decentralized structure of the political and administrative systems, the 'indigenous' minorities have to a large extent been 'carved out of Swiss society'—they are able to manage multiple dimensions of their life on their own. At the same time, members of immigrant minorities, even if they have already obtained Swiss citizenship, are usually able to pursue just one dimension of their goals—for example, interests relating to religion or language. The Swiss situation is totally different from, say, Great Britain: the number of immigrants and their concentration in particular localities has not of itself led to the development of successful lobbying in Switzerland (compare the successful attempt of Sikhs in Great Britain to obtain exemption from wearing helmets (Poulter 1998: 277ff.)). The uniquely Swiss direct democracy—facilitating the endeavours of the 'indigenous' minorities—tends to exert a negative impact upon immigrant minorities' goals, rendering politicians especially susceptible to xenophobic public opinion (see Sciarini *et al.* 1998).

The low profile displayed by the minorities is also significantly affected by the habitus of incorporation of immigrant labour in Switzerland. By habitus I mean internalized attitudes informing action. This materializes itself especially in two sets of attitudes towards immigrants. First, they are generally perceived as low class. Indeed, especially during the 1960s and the 1970s, foreign workers (*Gastarbeiter*) pouring into Switzerland were in demand especially, though by no means exclusively, as non-skilled labour. The analysts of the time coined the term *Unterschichtung* (creating a lower class), referring to the fact that foreigners were entering Swiss society from below (Hoffmann-Nowotny 1973). This intuitive picture corresponds with actual divisions in so far as specific occupations were identified with the immigrants. However, we must not forget that there is a very high demand for skilled foreign labour in the form of scientists, managers, sportsmen, etc. But the low prestige accorded to immigrants in general has worked as

a strategic device, keeping them out of the public sphere, as well as constructing an exaggerated picture of cultural distance. Until recently, the official 'three-circles model', defining the right to work in Switzerland through criteria of geopolitical distance (west European countries, then Southeast Europe, then the rest of the world), clearly followed a cultural leitmotif prevailing within the sphere of labour. Consequently, minorities are still affected by a 'subaltern habitus'—an attitude that has also contributed to the reluctance of members of alien cultures to enter public arenas.

The second set of ideas relates to the widespread opinion among the Swiss majority, which has been proved totally wrong, that foreigners will come today and go tomorrow (cf. Georg Simmel). The well-known Swiss writer Max Frisch has remarked that those who invited labour to come and work in Switzerland did not expect to receive human beings. The Swiss public thus perceived foreigners, of whatever faith, as temporary visitors without a voice: there was no expectation of 'alien' demands being put forward to the general public and to Swiss institutions. But paradoxically, though many Swiss people feel that minorities are currently causing trouble, their attempts to express their objectives publicly have gained them prestige. Hence, entering the public sphere has been a long learning process for the minorities as much as for their Swiss 'hosts'. The entrance of minorities into the public arena reveals, among other things, their readiness to operate within Swiss public settings. It is impossible to answer here the question whether obtaining collective rights (dignity, identity) enhances opportunities in the labour market. But there is evidence that going public requires skills in cultural adaptation through schooling and networking, buttressing the very strong predilection for enhancing communication across industrial societies (as claimed by Gellner (1983)). This predilection has a strong basis in Swiss perceptions of what are the constitutive elements of national unity.

The political culture and cultural orientations

Switzerland has often been depicted as coming closest to Habermas's model of 'constitutional patriotism' (*Verfassungspatriotismus*), that is, to the idea of a nation defining itself through acknowledgment of and adherence to the validity of institutions and procedures within the polity (see Sciarini *et al.* 1998).[9] This idea probably arises through a process of elimination. Being divided along linguistic and religious lines, the national unity of the Swiss cannot possibly be based on a common cultural denominator. The case is more complicated, of course. The question as to what creates Swiss national unity is the subject of frequent inquiries, some proposing the all-embracing symbolism of the cow, while others highlight the brave spirit of mountain people surviving (rather well, in recent decades) in

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9. The central idea in this approach is that 'the political culture of a country crystallizes around its constitution' (Habermas 1998: 408).

difficult surroundings. Such approaches reveal, of course, the sometimes ridiculous nature of attempts to define the cultural elements at the roots of collectivities. In the Swiss context especially, the question cannot be solved in any simple way. Hence, when the far right demands that immigrants wishing to stay in the country undergo a successful assimilation process, one cannot help but ask what kind of cultural content would be at the heart of this assimilation. Habermas's approach certainly expresses a very salient feature of the unifying Swiss political culture, understood here as the citizens' attitudes towards the political system which relate to their perceptions of their own place within the polity. Swiss unity is strongly defined by citizens' rights (e.g. of participation in institutions of direct democracy) and, at the same time, maybe even more by civic duties such as military service and following rules and regulations regarding educational curricula.

The notion of participation in public life requires a far-reaching exposure to Swiss values and norms, and indicates a willingness to undergo a learning process which would entail the adoption of many dispositions simultaneously: above all, acquiring the skills of a citizen without the external pressure to undergo assimilation. The left-wing model of 'integration through participation' (Ossipow 1996; see also Wicker 1997) is perceived rather in terms of learning by doing. In some areas rights and duties merge: participation in public life certainly entails both elements. Among the highlights of Swiss unity that are often stressed are civic autonomy as well as the existence of a very strong network of civic organizations (the pride of many Swiss), and also the quest for self-organization supported by a strong emphasis upon the successful management of self-help. These elements make for strong pressure upon minorities to endorse the Swiss normative framework: the endorsement of the central values and norms of the 'host' society is necessary in order to put forward valid arguments when entering the public sphere. At the same time, it becomes all the more problematic for minorities to ask for too many concessions when such a highly valued issue as endorsement of the notion of civic duty is at stake.

The comparative perspective of this inquiry provides us with interesting insights regarding prevailing dispositions towards self-organization and towards 'going public'. By examining the problems and actions of Muslims, Buddhists, and Hindus simultaneously, striking similarities as well as differences emerge regarding goals as well as courses of action undertaken. One rather striking convergence comes to light in comparison with the situation of the Jewish community which—certainly unwillingly—currently provides an implicit role model for other non-Christian religious minorities. At the beginning of this inquiry I expected the particular 'rights' of the Jewish community to be referred to by other minorities as a precedent. This expectation was confirmed, but another observation is probably more striking, namely the low profile of Jewish communities in Switzerland, their efficient forms of self-organization, and especially their successful strategies in solving their problems themselves, which are largely replicated by other minority organizations. It is noteworthy that in view of the restrictive funding policies of public bodies, Jewish communities have so far been compelled

and able to provide their own financial support for their religious schools and cemeteries.

We are confronted with an ambivalent situation here. On the one hand, the other religious minorities express the desire to be treated the same as Jewish communities. But depicting Swiss Jews as a precedent may put the Jewish population into a difficult position, because they have managed to keep their special provisions outside public scrutiny. There is some danger that Jews, currently considered by and large in Switzerland as an indigenous minority, could become more distant in public perceptions than they have been in recent decades. At the same time, the reluctance of Jewish organizations or public figures to address the Swiss public sphere with their objectives, aims, and grievances has certainly affected basic attitudes concerning how other minorities should deal with the Swiss public and with governmental institutions. The very private character of the Jewish way of solving their problems, the tendency not to make demands but to look after themselves, guides other minorities to some extent, who seem to adopt this attitude in their turn. Consequently, Swiss public institutions are less affected by minority demands than those in many other Western countries (especially England, Holland, Norway, or Canada). Nevertheless there is a clear-cut, increasing tendency to address public institutions in Switzerland as well, which is enhanced by the nature of the civic society movement involved in minority action.

At the interface between minorities, civil society, and public institutions

This inference addresses the increasingly embattled public–private dividing line. The Swiss non-state sector provides a widely developed network of supporting agencies. Minorities are not the only actors in the public sphere. Minority interests are formed within a broader context of organizations and groups pursuing different goals and objectives in relation to strangers (or foreigners). Minority organizations operate within a dense social field, orienting themselves and appealing to the same opportunity structures within the 'host society' that their opponents and supporters do.

So far, few organizations within the 'host' society have attempted to capitalize on specific situations when minority organizations make their specific claims. The debate surrounding the establishment of the Muslim cemetery in Zurich is one exception. Here, the local branch of the SVP (a right-wing conservative party) has actively opposed the municipality's provisions to make the cemetery possible. Its fierce opposition created a counter-movement: most political parties decided to support approval for a cemetery, positioning themselves as 'foreigner-friendly' and capitalizing upon this position. The involvement of religious minorities in Switzerland in the very diverse and extensive network of organizations has importantly contributed not only to their welfare, but also to generally enhancing their chances to interact, enter into prolonged dialogue, and shape cultural meanings in mutual exchange. The examples discussed indicate that it is no longer possible to contain

collective demands within the realm of the private domain. Religious activists address numerous public and semi-public institutions and committees, they appeal to courts, asking at least for the reinterpretation of existing laws, which makes legislators reconsider binding provisions. However, my examples also reveal that various exponents of public institutions go to great pains in order to find private solutions, such as granting Muslims in Zurich a plot of land for which they must pay. Making Muslims pay for their cemetery indeed means keeping the problem private. Only after Muslim communities failed to collect sufficient funds for their own cemetery were the political authorities approached with a demand that they loosen the strict rule that no special plots be granted to members of different faiths. That this is a hot issue in Zurich now is indicated by the political authorities' insistence on postponing a solution until after the 1999 elections.

The support and co-operation of the various governmental as well as non-governmental organizations in other countries can arguably enhance the visibility of minority demands in the public sphere and contribute to their confinement within the private sphere. In Switzerland, the latter occurred. Extensive co-operation between different organizations and interest groups appears to have had an important effect upon how minorities have so far managed a variety of problems on their own. But they have paid a price in assisting various Swiss interest groups to 'let sleeping dogs lie'—the current Swiss leitmotif—hence agreeing to various cultural compromises, which have proved problematic for minorities in the long run. At the same time, with minorities mostly expressing their needs and grievances within the private domain, the Swiss principle of universal tolerance is hardly ever questioned in public.

Conclusion

Despite its binding character, the principle of universal tolerance has repeatedly been questioned in the course of negotiations brought into Swiss society by religious minorities. Two interrelated dynamics emerge. First, the examples given above indicate that this principle is inscribed, even ingrained, in institutional and procedural settings. The accommodation of minority demands therefore requires far-reaching readjustments which go way beyond mere reorientations towards values and norms. Because these ideas are ingrained within numerous rules and regulations, any demands for their readjustment are likely to be confronted with mostly stabilized institutional responses, prone to immobility. Hence, it is not just attitudes within Swiss society but existing opportunity structures which impede collective action by religious minorities.

The second inference is more general in nature. What do we learn by studying the processes of minority accommodation in a given national context? I suggest that, above all, it is the salience of those contexts in embracing general principles

that becomes apparent. While endorsing the central values attached to it in current debates, which are carried out independently of national contexts, the widespread notion of universalism tends to acquire the national characteristics of any particular country. Hence, in Switzerland, universalism is interpreted through the prism of Swiss procedural arrangements. To give some examples: the Swiss policies are by and large less oriented towards assimilation than in French ones; the principle of belonging is, unlike in Germany, defined by the *ius soli* rather than by the *ius sanguini*; and it also coexists with a variety of particularist provisions designed to accommodate differences within the society. How the universalist principle is endorsed in Switzerland will therefore affect processes of accommodating the particularist goals of the minorities. Without doubt, certain collective provisions will be necessary in the near future in order to satisfy minority demands. However, what will be understood as a collective provision or even a collective right will have a definitely Swiss aspect.

My focus upon the Swiss national context is, therefore, not only provided by the necessity to debate the obvious potential conflicts and to design practical solutions applicable there. I also suggest that we examine specific measures concerning minority accommodation in a comparative national perspective, because particular solutions may or may not hold in a particular national context. This argument is based on a number of assumptions. Above all, it is important to set aside two lines of debate. While the conceptualization of human rights, including collective minority rights, is carried out mainly at the international level—seeking, for instance, to define the scope of cultural rights or to design generally binding minimal anti-discrimination measures (see, for example, Brölmann *et al.* 1993, Eide 1998)—these are usually too broad in scope to solve all the major legal and political problems involved in minority accommodation at the national level. I concur, therefore, with Walzer's (1997) observation that international society lacks a common history and culture, but that every domestic society inevitably develops a 'common moral standpoint', however disputed or even embattled, which comes about as a result of a shared history and experiences and reflects power relations within a given society. The 'common moral standpoint', always biased towards the positions of influential sections within a given society, tends sometimes to develop and sometimes to ossify when addressed and challenged by new members of a given society in seeking to pursue their goals as a minority. Such a moral standpoint is closely interrelated with the value systems underlying state institutions and state practices (the legal system, integration policies), at the same time responding to notions embraced within civil society and itself affecting so-called 'political culture'.

During the last decade, it has been national contexts—in Canada, the Netherlands, Great Britain—that have mostly been discussed in relation to the particularist principle of the accommodation of minorities within state societies. Central Europe has joined these debates at a rather late stage, providing a very different framework, crucial in our context. In the first place, the emerging clashes of values and negotiations address the problem of accommodating difference

within an individualist framework. Let me repeat here one question formulated by Habermas (1994: 108), who defends the individualist–universalist principle against the 'collective challenge':

> While modern law establishes a basis for state-sanctioned relations of intersubjective recognition, the rights derived from them protect the vulnerable integrity of legal subjects who are in every case individuals. Can a theory of rights that is so individualistically constructed deal adequately with struggles for recognition in which it is the articulation and assertion of collective identities that seems to be at stake?'

This question reveals a series of problems. First, we can sense an uneasy acknowledgment of the existence of collective categories, as well as detect the expectation that they are likely to pose a problem in the near future. Secondly, we witness Habermas's readiness immediately to set out to reconcile collective notions with individualist categories, by reducing the former to the latter. Such reconciliation is envisaged by having resort to legal interpretative frameworks such as anti-discriminatory practices or protection measures formulated in idioms of individualism. And it is, finally, obvious that the individualist position strives to restrict collective demands, grievances, and solutions to the private sphere, thus keeping them out of the public domain. Habermas's question, and the avalanche of debates it has provoked, open up a wide space for further investigations.

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