

Grasping the Nettle:

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The Austrian State and Islamism

Sir John Jenkins and Clarisse Pásztor



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Executive Summary

- Austria offers a little heralded, but important example of how democratic states can develop a coherent set of policies for dealing with the ideological challenge posed by Islamism.
- An Islamist presence in Austria dates back several decades, starting with Arab exiles and Turkish-based organisations and individuals.
- The *Islamische Glaubensgemeinschaft Österreich* (IGGÖ: the officially recognised self-governing body regulating Sunni Muslim affairs in Austria, established in 1979) has long-been under suspected Islamist influence. It is currently led by Austrian Muslims of Turkish origin, many of whom have personal or professional links to Recep Tayyip Erdogan’s ruling AK party.
- The Austrian authorities have over several years built a capacity to monitor both violent *and non-violent* forms of Islamism. The current Chancellor, Sebastian Kurz, has made the effort to challenge Islamism a key part of his policy platform – reinforced in the wake of the 2 November 2020 terrorist attack in Vienna. This has placed a premium on tackling Islamism as an ideology.
- New measures specifically aim at targeting Islamism as an ideology. This includes a move to make adherence to political Islam a criminal offence; the closure of Islamic religious and cultural associations; the introduction of an imam registry; the tightening of existing legislation governing the establishment and conduct of NGOs – including, but not limited to external funding; increased sentencing tariffs for the use of prohibited symbols; and improved coordination and data exchange between law enforcement agencies and the bodies overseeing associations and self-governing religious bodies such as the IGGÖ.
- Chancellor Kurz, in alignment with President Emmanuel Macron in France (who has launched his own drive against Islamism), has also sought agreement for coordinated law enforcement measures across the EU – in particular for more effective control of the Schengen borders, better data exchange, restrictions on returning foreign fighters and the diminution of terrorist content on social media.
- In parallel a number of police raids have targeted a number of individuals and organisations with alleged Islamist connections. According to the local press, this has included SPÖ (Social Democratic Party) candidates for local and provincial elections, a number of well-known anti-Islamophobia activists and some current or previous employees of the IGGÖ (though the IGGÖ itself has denied any institutional connection).
- More broadly, Chancellor Kurz has sought to underline the primacy of secular law in the Austrian context. Austria’s federal constitution (the 1920 *Bundesverfassungsgesetz*) and the Basic State Law (the 1867 *Staatsgrundgesetz*) already contain provisions regulating the separate spheres of state and religion. Subsequent laws define certain political and ethical boundaries in more detail: notably, the 1947 *Verbotsgesetz* (Prohibition Act) and the 1912 *Islamgesetz* (Law on Islam), revised in 2015. The former criminalises the promotion or dissemination of National-Socialist activity and ideology and also various forms of antisemitism. The latter provides a legal basis for the governance of Muslim affairs by certain self-regulating bodies, which in practice means the IGGÖ. It stipulates a range of rights but also obligations, most notably acceptance of the precedence of Austrian over Islamic law; and a positive approach towards society and state.
- In Germany, the 1948 ‘Grundgesetz’ identifies a series of fundamental rights which define a self-consciously liberal, democratic order. Based on these, the *Bundesamt für Verfassungsschutz* (Federal Office for the Protection of the Constitution) routinely identifies Islamists and others as *Verfassungsfeindlich* (inimical to the Constitution).

No one is claiming that either the Austrian, the German or indeed the French way of addressing threats to the legitimacy of the liberal democratic order is perfect. Many critics have in particular questioned the sense or practicality of outlawing Islamism. But they do at least offer important case studies for the ways in which the liberal state can counter those who deny the fundamental principles on which it has been built – recognising that it cannot simply be ‘neutral’ in the face of that challenge. The British State would do well to reflect carefully on their experience.

Introduction

The evolving Austrian debate on Islamism – reflecting in turn a growing public understanding of the issues over the last decade – continues to be of great interest to anyone concerned with the future of a liberal democratic state system. In France, the Macron government has been spurred into action by acts of terror. In Italy successive governments have for years used their long experience with combating organised crime to remove Islamist hate-preachers and others who undermine social cohesion with admirable expedition. In Germany concern about Islamism is at last gaining traction beyond the intelligence agencies. But it is in Austria over the last three years that the public and now governmental focus on the subject has in some ways been most sustained and instructive.

And we should really be paying far more attention. It was remarkable how surprised the British press seemed to be by the 2 November terror attack in Vienna¹ - as if no one imagined such atrocities could ever come to the Ruprechtstrasse, Schönbrunn or the Hofburg. Austria after all had no colonial history in the Arab world, did not seem to face the same sort of immigration challenges as France or the UK, and was generally a safe, rich and tolerant bourgeois haven with many of the right political attitudes.

Austria is certainly safe, rich, tolerant and bourgeois. But this framing misses out as much if not more than the tired narratives some newspapers in the UK and the US have recently sought to promulgate about France.

A Short History of Islamism in Austria

Whether Metternich really ever said, “*Der Balkan beginnt am Rennweg*”² or not, the sentence captures an essential truth. Austria for historical and geographical reasons is Europe’s point of entry to and from the Balkans, which is why successive governments in Vienna have taken such a close interest in what happens there. Austria has also had over the past 500 years a more complicated relationship with Turkey, the former imperial power in the region and until the late C18th a serious military threat, than almost anywhere else in Europe. It was the effective annexation of previously Ottoman-controlled Bosnia and Herzegovina (BiH) after the Congress of Berlin that led to the establishment of a significant, if initially small, Muslim community in Austria from the late C19th onwards.

But as in Germany, the 1960s were the key decade, with an influx of Turkish ‘*Gastarbeiter*’ (guest workers) to meet the demands of a surging economy. In the 1990s Austria received some 200,000 refugees from the former Yugoslavia, many of whom were Muslim Bosniaks and Kosovo Albanians. And in 2015 a new wave arrived of mainly Muslim refugees from Syria and elsewhere in the Middle East.³ As a result, between 1970 and 2016 the percentage of Muslims in the Austrian population rose from 0.3% to 8%.⁴ They currently number around 700,000 out of a population of 9 million.

The internecine Balkan conflicts of the 1990s left a legacy of irredentism and in some areas a degree of Islamisation. The fighting in BiH was fuelled by some states – Iran was one of the first to send arms and trainers – and by veterans of the Afghan campaign, Saudis in particular, some of whom settled there after the war. Gulf states also provided significant funding for Islamic causes, largely from private donors and under humanitarian pretexts, significantly influencing both practice and doctrine among some Balkan Muslims.

This certainly had an impact on Austria. But it was the wave of refugees from further afield after 2015 that has done most to shape the current domestic debate about integration, social cohesion and values, which is now being articulated at a governmental as well as a popular level.⁵

It bears constant repeating that not all – or even a plurality – of Muslims are Islamists. But while only a

¹Carried out by Kujtim Fejzulaj, a 21-year-old dual Austrian-North Macedonian of Albanian origin. He was already known to the Austrian authorities as an Islamic State (IS) sympathiser, had previously tried to reach Syria, was sentenced under the juvenile criminal code and put on a deradicalisation programme after early release in 2019. He was still in the programme when he tried to source weapons from Slovenia and eventually carried out the attack.

²“*The Balkans begin on the Rennweg*” – then the main road out of Vienna towards the South East.

³There were some 95,000 asylum requests in 2015 alone.

⁴<https://de.statista.com/statistik/daten/studie/312152/umfrage/anzahl-der-muslime-in-oesterreich/>

⁵For a good account of some of the connections between conflict in the Balkans and the spread of radicalisation into Austria on the back of foreign funding see *Christa Zöchling, Scharia-Import: Türkei, Saudi-Arabien und andere Golfstaaten sponsern Hunderte Vereine in Österreich, Profil, 25 November 2014* at <https://www.profil.at/oesterreich/scharia-import-tuerkei-saudi-arabien-golfstaaten-hunderte-vereine-oesterreich-378548>.

small minority of Austrian Muslims – as elsewhere – would support violence, there have undoubtedly been significant problems with integration since the 1960s. In 2006 a study⁶ by the Interior Ministry suggested that 50% of Austrian Muslims preferred to maintain parallel social and cultural structures rather than integrate into the mainstream. The then head of the Islamic Information Center, Ahmed Rusznak, sought to nuance the conclusions – while acknowledging that the figures might actually be an underestimate. A subsequent German study in 2013, which found that 73.1% of Austrian Muslims gave precedence to Islamic over Austrian national law,⁷ seemed to confirm the results. And a 2017 study – at the height of the conflict with the Islamic State (IS) in Iraq and Syria – reported that a third of the respondents held ‘highly fundamentalist’⁸ Islamist views.

The spread of such ideational contestation is associated elsewhere with organised Islamism and its ability to promote and normalise a certain form of discourse about Islam and Muslims. Austria is no exception. Islamist groups have worked over decades to establish a significant if sometimes overlooked network there.⁹ Its roots go back to the 1960s, when prominent Muslim Brothers, in exile from Nasser’s Egypt, established a presence in Graz, the idyllic provincial capital of Styria and gateway not just to the Balkans but to Northern Italy and within easy reach of Munich, the earliest centre for Islamist activism in Germany.

A central figure in this process (as in much Muslim Brotherhood (MB) activity across Europe) was Yusuf Nada who settled in Graz in the early 1960s.¹⁰ Others included Ahmed Mahmoud El Abiary, with links to Islamist circles in London, and Ayman Ali, who was active with Islamist groups in the Balkans during the 1990s and subsequently acted as an advisor to the late President Mursi during the short period of MB dominance of Egyptian politics between 2012 and 2013. A smaller number of Syrian and Palestinian Islamists established themselves in Graz and Vienna, including Anas Schakfeh,¹¹ President of the *Islamische Glaubensgemeinschaft Österreich* (IGGÖ: the officially recognised self-governing body regulating Sunni Muslim affairs in Austria, established in 1979) between 1999 and 2011.

This network has evolved over the last three decades to encompass a variety of distinct but increasingly inter-operational geographic groups: Muslim Brothers of Arab origin, their analogues from the Western Balkans (mainly BiH and Kosovo) and the Caucasus (mainly Chechens), Turkish Islamo-ethno-nationalists and most recently IS sympathisers from Syria and elsewhere.

There are clearly significant personal, ideological and operational differences between the MB and IS.¹² But there are also some intriguing connections. For example, the perpetrator of the 2 November attack in Vienna attended the same mosque¹³ as Austria’s previously best-known Islamist terrorist, Mohammed Mahmoud,¹⁴ the son of an Egyptian Muslim Brother who had found refuge in Vienna in the 1980s. According to the distinguished German historian and scholar of Islamism, Guido Steinberg,¹⁵ Mohammed Mahmoud and Mirsad Omerovic,¹⁶ a radical Austro-Bosnian imam of Serbian nationality living in Graz, who had worked at one point as a religious instructor for the IGGÖ, were involved from the 1990s onwards with the translation of jihadi texts from Arabic into German, Bosnian, Serbian, Albanian and Turkish.¹⁷ Steinberg has argued that this enabled individuals from

⁶*Islamisches Infozentrum: 50 Prozent integrationsunwillig*, *De Standard*, 6 June 2006 at

<https://www.derstandard.at/story/2448462/islamisches-infozentrum-50-prozent-integrationsunwillig>

⁷*Wissenschaftszentrum Berlin für Sozialforschung (WZB), Islamischer religiöser Fundamentalismus ist weit verbreitet*, 9 December 2013 at <https://www.wzb.eu/de/pressemitteilung/islamischer-religioeser-fundamentalismus-ist-weit-verbreitet>.

⁸*Ednan Aslan, Jonas Kolb, Erol Yildiz: Muslimische Diversität. Ein Kompass zur religiösen Alltagspraxis in Österreich*, Springer VS, 2017 at <https://link.springer.com/book/10.1007/978-3-658-17554-2>.

⁹See the ground breaking study by Lorenzo Vidino, *The Muslim Brotherhood in Austria*, *The George Washington University/ Universität Wien*, August 2017 at https://www.integrationsfonds.at/fileadmin/content/AT/Fotos/Publikationen/Forschungsbericht/MB_in_Austria-Print.pdf from which much of the following detail is taken.

¹⁰On whom see John Jenkins, *On Islamism, Policy Exchange*, November 2020.

¹¹Vidino *op cit*. He denies any link with the MB: see „Luxor“: Hohe Vermögenswerte gesichert, *ORF*, 11 November 2020 at <https://steiermark.orf.at/stories/3075474/>.

¹²Discussed more fully in Jenkins, November 2020.

¹³*Österreich schließt zwei Moscheen*, *Tagesschau*, 6 November 2020 at

<https://www.tagesschau.de/ausland/oesterreich-moscheen-101.html>

¹⁴Believed to have been killed in a US airstrike in Syria in November 2018.

¹⁵See Guido Steinberg *im Gespräch mit Gudrun Harter: TERROR IN WIEN. Was läuft schief?*, *Kreisky Forum*, YouTube, 12 November 2020 at <https://www.youtube.com/watch?v=MnN2vOkJSE> and <https://www.swp-berlin.org/wissenschaftler-detail/guido-steinberg/>

¹⁶*Christa Zöchling, Mirsad O: Der gefährlichste Prediger Österreichs*, *Profil*, 14 July 2016 at

<https://www.profil.at/oesterreich/mirsad-o-prediger-oesterreichs-7119225>

¹⁷Which began to circulate more widely from 2012/13 onwards.

a variety of backgrounds to access and disseminate key jihadi writings in their own languages, an important factor in the emergence of a radical Islamist network in Austria and beyond.¹⁸

This network then helped facilitate the travel of young radicals from Austria and the Balkans to Syria from 2011 onwards. Mirsad Omerovic may also have provided a point of entry into Austria for Chechen Islamists who were to join IS,¹⁹ though this is less well-documented: when Mirsad Omerovic was arrested for hate-preaching in 2014, a co-defendant was a Chechen²⁰ accused of multiple murder and the enslavement of women in Aleppo.

There are also troubling questions about the role of the IGGÖ, which is currently dominated by Austrian Muslims of Turkish origin, many of whom have personal or professional links to Recep Tayyip Erdogan's ruling AKP.²¹ The IGGÖ's current President, Ümit Vural, succeeded the controversial Ibrahim Olgun in 2018. Ibrahim Olgun had also served as the President of the Turkish-Islamic Union for Cultural and Social Cooperation in Austria (ATIB).²² ATIB is an umbrella organisation for some 60 independent Turkish associations in Austria with roughly 100,000 members. Its stated objectives are the coordination of the religious, social and cultural activities of Turkish mosques in Austria.²³ It is widely seen as a branch of the increasingly activist and well-funded *Diyanet*, the Turkish government's religious affairs agency, through which the former has sought to expand its influence over the Turkish community in Austria and elsewhere in Europe.²⁴ The consent of the IGGÖ is required for the appointment of imams, some at least of whom seem to have played a significant role in the expansion of Islamist influence in Austria.²⁵

The virulently nationalist group, the Grey Wolves, representing a potent mix of pan-Turkism and ethno-Islamism, is also active in the country. In Turkey, they function "as the youth branches of the far-right Nationalist Movement Party (MHP)".²⁶ In Austria and elsewhere in Europe, the authorities claim they work covertly²⁷ in alliance with the AKP and Turkish Intelligence to shape and control communities of Turkish origin.²⁸ In October they were implicated in violent clashes between ethnic Turks and ethnic Kurds and a subsequent violent stand-off in front of a Vienna church after the murder of Samuel Paty.²⁹

18 There is a very good Twitter thread on this subject with much granular detail by *Johannes Saal*, 10 November 2020 at https://mobile.twitter.com/johannes_saal/status/1326099625628020736. See also *Vienna terror attack: Police investigating 21 potential accomplices*, DW, 13 November 2020 at <https://www.dw.com/en/vienna-terror-attack-police-investigating-21-potential-accomplices/a-55593954> and *Cesare Giuzzi, Arrestato il «falsario» Turko Arsimekov: ha fornito documenti al terrorista di Vienna*, *Corriere della Sera*, 12 November 2020 at https://milano.corriere.it/notizie/cronaca/20_novembre_12/varese-arrestato-falsario-ceceno-turko-arsimekov-ha-fornito-documenti-terrorista-vienna-749cbf72-2523-11eb-9615-de24e09c8a4a.shtml.

19 Important not least because of the combat experience of Chechen fighters, their reputation for extreme violence and their links to extremist groups particularly in Syria.

20 Known as Mucharbek T. Since he disappeared before the end of the appeal trial and was never lawfully sentenced, he cannot be named under Austrian law.

21 Which emerged from the *Milli Görüş* ('National View'), the ethno-nationalist Islamist movement created by Erdogan's mentor, Necmettin Erbakan. *Jenkins*, November 2020 supplies more detail. There are other troubling influences at work: see *Andrew Hammond*, *Salafi Thought in Turkish Public Discourse since 1980*, *Int. J. Middle East Stud.* 49(2017), 417–435 doi:10.1017/S0020743817000319.

22 See *Stefan Kaltenbrunner*, *Interview: Der neue IGGÖ-Präsident und der Einfluss des türkischen Vereins Atib*, *Kurier*, 20 June 2016 at <https://kurier.at/politik/inland/erdogans-einfluss-auf-die-iggioe/205.513.257> and for more references https://de.wikipedia.org/wiki/Islamische_Glaubensgemeinschaft_in_Österreich

23 For further background see https://de.wikipedia.org/wiki/ATIB_Union.

24 An interesting and perhaps deliberate echo of the authority western powers claimed over Christian communities in the Ottoman Empire under the *Capitulations*, the abolition of which became an Ottoman war aim in 1914: *Eugene Rogan*, *The Fall of the Ottomans: The Great War in the Middle East*, Chapter 2. For the general point see *Ahmet Erdi Öztürk*, *The Many Faces of Turkey's Religious Soft Power*, *Berkley Centre, Georgetown University*, August 2020 at <https://berkleycenter.georgetown.edu/publications/the-many-faces-of-turkey-s-religious-soft-power>, *Zara Riffler*, „Der türkische Staat versucht, den deutschen Staat einzuschüchtern. Und das klappt“, *Tichys Einblick*, 19 November 2020 at https://www.tichyseinblick.de/meinungen/ali-ertan-toprak-der-tuerkische-staat-versucht-den-deutschen-staat-einzuschuechtern-und-das-klappt/amp/?__twitter_impression=true and the passionate denunciation of Turko-Islamist influence inside the DITIB – the German equivalent of the ATIB – and faith colloquia and the complaisance of German political elites by *Hamed Abdel-Samad*, *Die Islamverbände erzählen den Politikern Märchen*, *NZZ*, 26 November 2020 at <https://www.nzz.ch/meinung/hamed-abdel-samad-die-islam-verbaende-erzaehlen-den-politikern-maerchen-ld.1587874>

25 *Zöchling* 2014 has a lot of detail. Most recently a military Imam named Abdulmedzid Sijamhodzic has been removed at the request of the Defence Minister, in the face of protests from the IGGÖ, for being linked to Bosnian jihadi circles: see *Militär imam abberufen: IGGÖ kritisiert Ministerium*, *ORF*, 25 November 2020 at <https://orf.at/stories/3191028/>.

26 *Fehim Tastekin*, *Screws tighten on Gray Wolves, Erdogan's European guard*, *AL Monitor*, 13 November 2020 at <https://www.al-monitor.com/pulse/originals/2020/11/turkey-french-ban-grey-wolves-political-islam-nationalists.html>.

27 Erdogan claims they have no formal organisation. They have nevertheless just been banned in France.

28 An interesting episode during the 2 November attack in Vienna illustrates this. Two young men of Turkish origin, who together with a young Palestinian migrant came to the assistance of a passer-by and a police officer badly wounded by the attacker, were immediately praised as 'Turkish heroes' by the Turkish embassy in Vienna, which then arranged a telephone conversation between them and President Erdogan in which he thanked 'his boys' and called them "exemplary Muslims". It later emerged that both were sympathisers of the Grey Wolves. See *Walter Posch*, *Wie Erdoğan den Anschlag von Wien instrumentalisiert*, *Zenith*, 12 November 2020 at <https://magazin.zenith.me/de/politik/terror-oesterreich>

29 It should be said that Turkey has also provided Austria with significant CT support. According to the *Bundesamt für Verfassungsschutz und Terrorismusbekämpfung* (BVT), the Austrian agency in charge of domestic intelligence and law enforcement, some 320 Austrians of varying ethnic background joined IS. 62 were prevented from joining IS before reaching Syria, usually in Turkey: see https://www.bvt.gv.at/bmi_documents/2344.pdf

The Official Response

The authorities have over the years built up a pretty good picture of the Islamist scene in Austria. They acted as effectively as anyone else after 2011 to make travel to Syria more difficult, including through outreach to families and a rigorous focus on radicalisation and recruitment. From 2012 onwards they intensified the monitoring of mosques and imams of particular concern, and from 2014 conducted numerous raids resulting in a significant number of arrests and lengthy prison sentences.

But there were still significant gaps in both capability and execution. Like most countries, Austria had and has insufficient capacity for 24/7 observation of all IS sympathisers.³⁰ There was and is no legal provision for preventive detention.³¹ But with apparently increasing AKP influence within Austria's communities of Turkish origin, and against the backdrop of a sharp rise in the number of Muslim migrants from conflict zones seeking entry into Europe,³² the current ÖVP³³ Chancellor, Sebastian Kurz, has vowed to give the issue of Islamism far greater attention in government policy than had hitherto been the case.

So far he has – not without criticism – been as good as his word.³⁴ The government banned the public wearing of the *niqab* (full veil) in 2017, and in 2018 the *hijab* (headscarf) in kindergartens.³⁵ This summer the government announced the establishment of an 'Observatory for Political Islam' to act as a centre for official research, information and studies.³⁶

Recent Developments

Immediately after the 2 November attack the government announced a further and more extensive package of measures, long in preparation but now made more urgent, aimed at tackling extremism in both violent and non-violent forms. These include the electronic tagging of terror convicts released on probation, the introduction of life sentencing, the revocation of citizenship, passports and driving licences, the establishment of a special prosecutor for terrorism offences, and a reform of the politically battered *Bundesamt für Verfassungsschutz und Terrorismusbekämpfung* (BVT) – the Austrian agency in charge of domestic intelligence and law enforcement. Measures specifically targeting Islamism as an ideology include those that make adherence to political Islam a criminal offence; the closure of specific Islamic religious and cultural associations; the introduction of an imam registry; the tightening of existing legislation governing the establishment and conduct of NGOs – including, but not limited to external funding; increased sentencing tariffs for the use of prohibited symbols; and better coordination and data exchange between law enforcement agencies and the bodies overseeing associations and self-governing religious bodies such as the IGGÖ.³⁷

On 9 November the police launched a nation-wide security operation – in preparation for many months and not directly linked to the attack a week earlier – during which the police raided 60 premises associated with the MB, including homes, offices and a socio-cultural foundation founded by Anas Schakfeh.³⁸ According to the police they seized significant amounts of extremist materials, over 20 million EUR in cash and evidence of money transfers to Egypt, ostensibly meant for the defence of MB cadres in Egyptian prisons but allegedly also for Hamas.³⁹ The investigation continues.⁴⁰

³⁰See for example, <https://www.reuters.com/article/us-austria-attack-idUSKBN27P1KG>.

³¹Which may have helped prevent the 2 November attack.

³²For some of whom Islamist groups offered a convenient docking station.

³³Die Österreichische Volkspartei – essentially the Christian Democrats.

³⁴As discussed by John Jenkins, *A lesson from Vienna in countering Islamist extremism*, *Policy Exchange*, 17 July 2020 at <https://policyexchange.org.uk/a-lesson-from-vienna-in-countering-islamist-extremism/>.

³⁵Now the subject of a ruling by the Austrian Constitutional Court: see <https://www.euronews.com/2020/12/12/austrian-constitutional-court-rules-headscarf-ban-in-primary-schools-unconstitutional>.

³⁶Immediately denounced by the IGGÖ as 'Islamophobic'.

³⁷ See <https://www.bundeskanzleramt.gv.at/bundeskanzleramt/nachrichten-der-bundesregierung/2020/bundeskanzler-kurz-terrorismus-und-politischen-islam-mit-allem-mitteln-bekaempfen.html>

³⁸Früherer IGGÖ-Präsident Schakfeh: "Keine Verbindung zu Muslimbrüdern", *OE24*, 13 November 2020 at <https://www.oe24.at/newsfeed/frueherer-iggoe-praesident-schakfeh-keine-verbinding-zu-muslimbruedern/453980115>.

³⁹See <https://steiermark.orf.at/stories/3075071/> based on a press release by the Styrian prosecutor office.

⁴⁰See <https://steiermark.orf.at/stories/3075474/>. The evidence is contested by some of those involved: see for example the ORF interview with Farid Hafez at <https://tvthek.orf.at/profile/ZIB-1/1203/ZIB-1/14074240>.

The press has reported that those under investigation (some 70 individuals and a significant number of associations and NGOs) include SPÖ⁴¹ candidates for local and provincial elections, a number of well-known anti-Islamophobia activists,⁴² and some current or previous employees⁴³ of the IGGÖ,⁴⁴ including one in charge of religious education in schools.⁴⁵ The IGGÖ have denied any institutional connection. 30 other persons are also said to have been temporarily detained on charges related to support for terrorist networks, anti-state activity, criminal enterprise, terrorism financing and money laundering.⁴⁶ There are allegations of terrorist (presumably meaning Hamas rather than IS or AQ) funding conducted through affiliates of the Muslim Brotherhood in Austria, with most of the money coming from Qatar.⁴⁷

More widely, in the wake of the attacks not just in Vienna but also France, the Chancellor together with President Macron has sought agreement for coordinated law enforcement measures across the EU – in particular for more effective control of the Schengen borders, better data exchange, restrictions on returning foreign fighters and the diminution of terrorist content on social media. Germany and the European Commission remain lukewarm at best. The British government has other preoccupations. For the moment this makes Kurz and Macron seem rather isolated fighters against Islamism in its broadest sense in Europe.⁴⁸

The Looming Challenge

And this points up a challenge for all governments that want to get to grips with the dilemma that Islamist ideologies – not simply acts of Islamist violence – pose. The question is not necessarily one of terrorism. It is instead the threat that Hannah Arendt⁴⁹ identified nearly 70 years ago as one of the chief features of totalitarianism, namely its structural opposition to all existing social, legal and political traditions and its claim to “obey strictly and unequivocally” the laws of Nature or History – in this case on behalf of a Hidden God whose purposes are exclusively revealed in the Qur’an and whose commands are exclusively interpreted by an exclusively Islamist exegetical class. Islamism is not a party. It is a globalised, segmented social movement, united by claims that Islam contains all truth while Shari’ah is the only truly legitimate repository of law. Islamists may make from time to time an accommodation with the profane world. They may participate in secular politics. But this is always tactical. Their goal, however long it might take, is to establish what they conceive as a perfect Islamic state, governed by Shari’ah under the direction of a legitimately Islamic ruler. Most Islamists wish to do so gradually and peacefully, by persuading others to abandon their previous practices and beliefs.⁵⁰ Some wish to do so immediately and violently. But all reject the fundamental distinction in the western tradition between the secular and the divine, the temporal and the eternal, the immanent and the transcendent.

In the heartlands of Islamism, the wider Muslim world, there are always alternative models of being authentically Muslim available. All around there is the evidence of a civilisation and a tradition of radically un-Islamist Islamic thought and political practice. Over 1400 years, Islam, like every other great religion, adapted itself in different places and in different ways to the contours of what Kant called the crooked timber of humanity. There are Islamic scholars who will authoritatively call out what they regard as heterodox and deviant Islamist

41Die Sozialdemokratische Partei Österreichs – the Social Democratic Party of Austria.

42<https://www.diepresse.com/5903858/farid-hafez-ich-bin-betroffener-der-operation-luxor>

43<https://www.reuters.com/article/us-austria-attack-idUSKBN27P1KG>

44Erste Details zu österreichischen Ermittlungen gegen die Muslimbruderschaft wurden bekannt gegeben, MENA Research Centre, November 2020 at <https://mena-studies.org/first-details-on-austrian-investigations-against-muslim-brotherhood-revealed/>

45<https://www.sn.at/politik/innenpolitik/hohe-vermoegenswerte-bei-muslimbruedern-beschlagnahmt-95484127>

46<https://orf.at/stories/3189079/>

47<https://mena-studies.org/first-details-on-austrian-investigations-against-muslim-brotherhood-revealed/>

48For which, of course, they have been predictably denounced as ‘Islamophobic’: see *Askin Kiyagan, Austria to launch Muslim profiling scheme, Anadolu Agency, 20 July 2020* at

<https://www.aa.com.tr/en/europe/austria-to-launch-muslim-profiling-scheme-/1916489>. Following the Austrian example, the French authorities have also recently raided a number of mosques: *Charles Bremner, France launches crackdown on radical mosques, The Times, 3 December 2020* at <https://www.thetimes.co.uk/article/mosques-raided-in-french-crackdown-against-political-islam-h2zlpn289>.

49Hannah Arendt, *The Origins of Totalitarianism, Penguin Classics, 2017* (first published 1951). The comparison with Islamism is hardly new: it was made for example in an Austrian court in 2016: *Vidino 2017, 146*. For a more extensive discussion see *Jenkins, November 2020*.

50On this see now *Itzhak Weismann and Jamil Malik (eds), Culture of Da’wa: Preaching in the Modern World, University of Utah, 2020*.

hermeneutical practices and the conclusions that follow.⁵¹ There is oppression and injustice, certainly. But there is also a widespread unwillingness to be subjected to Islamist rule.⁵²

In Europe and the US in contrast the terrain is wide open. And the climate is propitious. A remarkable feature of the development of Islamist discourse over the last few decades is how, in spite of often violent historical rivalry in the Arab world between communists and Islamists, it has managed to align itself in Europe and elsewhere with critiques of western modernity typical of the New Left. Where Marx saw history as a dialectical struggle between oppressed and oppressor leading to social justice and universal utopia, Islamists see it as a sacred struggle between oppressor and oppressed leading to social justice and universal salvation.

The Response

The ideological character of the Islamist threat poses a policy challenge for any government that regards Islamism in all its varieties as subversive not simply of the current stage of social and political development but of the entire European enterprise – with its roots in Roman and customary law, its distinction between the church and the state, and its secular and non-teleological conception of history shaped by humans for humans and not by God for his creatures.⁵³

It is easy to criminalise acts of terror or violence. It is possible, if not easy, to criminalise certain forms of incitement. But how do you combat ideas which are so fundamentally hostile to the existing order of things that it is hard to see how in the long run they can coexist?

This brings us to the question of ‘values’. Western politicians often take refuge in this term when they seek to define what it is that violent Islamists seek to attack and they seek to defend. But ‘values’ tend to change over time and are in general not principles but characteristics – representing, that is, not the underlying DNA, but its expression in a particular time and place. Scepticism about gender equality, hostility to same-sex relationships, distaste for abortion on demand, suspicion of immigrants, support for wars of expansion, slavery, colonialism and so forth have all been features of western societies – and no doubt all other societies across the world – until very recently. In the contemporary West none of these are respectable positions to hold. Given our current culture wars, it is hard to say with confidence what other ‘values’ might be widely held in 50 years’ time.

A more fruitful way to think about this might therefore be in terms of the underlying jurisprudential principles through which law, the bedrock of the western order, evolves and commands consent, and the historical and cultural traditions these principles encode. In England, from the C12th onwards the emergence of what became Common Law provided a jurisdictional framework for the emergent national state. Elsewhere it was an analogous understanding of Roman Law and Administration, mediated through the Church and inflected by regional customary and personal law that provided the underpinning for other parts of early medieval Europe.⁵⁴

It was the subsequent rediscovery or reconstruction by highly skilled scholars in the Italian city states of the great legal commentaries and digests of the later Roman Empire and Cicero’s theoretical works that kindled Renaissance debates about sovereignty, citizenship and republicanism and fed the humanist concern with

⁵¹For example, Sheikh Mohammad bin Abdulkarim Al-Issa, President of the Riyadh-based Muslim World League and former Saudi Minister of Justice, who has made eirenic statements about Jews and told Muslims in the West to integrate into their societies rather than radicalising on the margins. In public and private, he has also opposed sending Muslim students to Islamic private schools rather than giving them an opportunity to learn science and literature. See *Ben Cohen, Islam Respects Right of Jews to ‘Live in Dignity,’ Muslim World League Chief Muhammad al-Issa Declares.*

The Algemeiner, 27 February 2018 at <https://www.algemeiner.com/2018/02/27/islam-respects-right-of-jews-to-live-in-dignity-muslim-world-league-chief-muhammad-al-issa-declares/>.

⁵²See *Jenkins, November 2020* for a discussion of the evidence of this unwillingness. Islamists often claim that the Muslim Brotherhood and other Islamist groups are the only viable alternative to oppressive regimes in the Islamic world and enjoy overwhelming support. That is not borne out by the evidence. The claim seems to be another example of the Islamist tendency to promote their own importance by occluding that of others.

⁵³For a remarkable, clear and forceful discussion of precisely this point by the German CDU politician (of Kurdish extraction) Ali Erkan Toprak, see *Riffler 2020*

at https://www.tichyseinblick.de/meinungen/ali-ertan-toprak-der-tuerkische-staat-versucht-den-deutschen-staat-einzuschuechtern-und-das-klappt/amp/?_twitter_impression=true. See also the open letter published by 16 prominent German intellectuals, scholars and political figures – including five Muslims – *Stoppen wir den politischen Islam!*, *Die Welt*, 30 October 2020 at <https://www.welt.de/debatte/kommentare/article218966976/Morde-von-Nizza-Stoppen-wir-den-politischen-Islam.html>.

⁵⁴See *Peter Stein, Roman Law in European History, CUP 1999*. Note his comment at 66, “Despite the de facto validity of local law, Roman civil law provided an accepted ‘mind-set’, which formed the basis for political and legal thought throughout Europe.” In the Eastern Empire the Codex Justinianus – the greatest single compilation of Roman Law – remained the basis of the legal system until 1453; in Russia until 1917 and in modern Greece until 1940.

statecraft and right conduct rather than salvation.⁵⁵ These texts were radically secular. They defined not good or evil but the legal and the illegal and described an ethics rooted in virtue⁵⁶ and reasoning not soteriology. The jurisprudence that arose was based among other things on notions of individual legal personality,⁵⁷ social responsibility, accountability before the civil law and the rigorous collection and scrutiny of evidence. Before this law everyone was and is equal. And it incorporated a theory and practice of change, mediated through political institutions and processes designed to command sufficient consent for an entire social and political system to function. It has never been necessarily dependent on a claim to universality:⁵⁸ that claim is a function more of historical circumstance than of the law itself. But it has come to be thought of as both an emanation and an underpinning of distinctive forms of statehood and sovereignty – and as encoding a particular social, cultural and intellectual tradition.

A Possible Model?

We perhaps see the enduring importance of this tradition today most clearly in the German Grundgesetz (Basic Law) drafted immediately after WW2 by legal scholars and politicians under the direction of the Allies in order to embed a liberal order and prevent the recurrence of Nazism. The Law as it stands today contains 146 Articles specifying a range of Grundrechte - fundamental rights - including gender equality, judicial independence, freedom of speech and association (with certain caveats based on Germany's particular historical experience), equality before the law, freedom of religion and so forth. Again the Law does not claim that these rights are necessarily 'self-evident' or universal in the Kantian sense:⁵⁹ they spring after all from a particular historical experience and are located within a very European conception of the boundaries of a legitimate political community. But it uses the language of rights to mark not a rupture so much as the adoption of an ethical and political model firmly rooted in the European imagination. If it does not reflect the political traditions of pre-1945 Germany, it can still trace its origins in a German-language tradition⁶⁰ as much as any other and in so doing seeks to bridge the past, the present and the future.⁶¹ And it makes rights central to membership of the self-consciously liberal order that post-war West Germany imagined it represented – and a reunited Germany continues to represent in the very different circumstances of today. That is why the German domestic intelligence agency, Das Bundesamt für Verfassungsschutz (The Federal Office for the Protection of the Constitution) can define those who seek to contest these rights, including Islamists, as *Verfassungsfeindlich* (inimical to the Constitution).

Austria offers a parallel approach. The Staatsgrundgesetz⁶² (basic state law), which dates back to 1867, remains in force and is regularly amended to reflect modern social norms. It formed the basis for the Muslim Recognition Act of 1874 and the Islamgesetz (Islam Law) of 1912,⁶³ making it almost certainly the oldest such law in Europe. Last amended in 2015,⁶⁴ it provides a legal basis for the governance of Muslim affairs by

⁵⁵See **Quentin Skinner, *The Foundations of Modern Political Thought: Volume 1, The Renaissance*, CUP 1998.**

⁵⁶As had Aristotle, of course, a major influence on Aquinas and other scholastics.

⁵⁷See **Stein, 2017, 80**: "Justinian's definition of law gives one aim for all law, namely to assign to each what is due to him (*suum cuique tribuere*)."

⁵⁸Though the claim may be – and is – made from time to time.

⁵⁹It asserts in the preamble that, "Damit gilt dieses Grundgesetz für das gesamte Deutsche Volk", not for humanity as a whole. It is true that in Article 1 it recognises inalienable human rights as the basis of every human society, global peace and global justice. But that is a rather different thing than the assertions of the US Constitution, making rights perhaps universalisable rather than actually universal.

⁶⁰See for example **Kant's Social and Political Philosophy** at <https://plato.stanford.edu/entries/kant-social-political/>.

⁶¹Something that recalls the powerful arguments about tradition and the European identity made by Edmund Burke, for example in ***Reflections on the Revolution in France***, "The cause must be sought in the similitude throughout Europe of religion, laws, and manners. At bottom, these are all the same. The writers on public law have often called this aggregate of nations a commonwealth. They had reason. It is virtually one great state having the same basis of general law, with some diversity of provincial customs and local establishments. The nations of Europe have had the very same Christian religion, agreeing in the fundamental parts, varying a little in the ceremonies and in the subordinate doctrines. The whole of the polity and economy of every country in Europe has been derived from the same sources. It was drawn from the old Germanic or Gothic customary, from the feudal institutions which must be considered as an emanation from that customary; and the whole has been improved and digested into system and discipline by the Roman law." A similar claim to a common jurisprudential culture is made by the European Convention on Human Rights.

⁶²In its current 2020 version: see <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10000006>.

⁶³<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10000207> Also seen https://en.wikipedia.org/wiki/Verbotsgesetz_1947.

For the text in both German and English see <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10000207>

⁶⁴In 1988 the law was amended by an 'Islam Regulation' (1988) and replaced in 2015 by a new *Islamgesetz* at the urging of the IGGÖ. For the full text of the current law see https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2015_I_39/BGBLA_2015_I_39.pdf and

<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20009124>. It is one of four such laws governing specific non-Catholic religious communities, the others being Judaism, Greek Orthodoxy and the Evangelical Church.

certain self-regulating bodies, which in practice means the IGGÖ (and a smaller body governing the affairs of the Alevite community).⁶⁵ It stipulates⁶⁶ a range of rights but also obligations, most notably acceptance of the precedence of Austrian over Islamic law; a positive approach towards society and state; the right to maintain one or more public law bodies representing the Muslim community in Austria; and the right to be consulted in the drafting of legislation touching on Muslim interests or affairs.⁶⁷

In addition, Austria's Federal Constitution (the 1920 Bundesverfassungsgesetz) was reinstated in 1945 and supplemented by laws defining - and limiting - acceptable political and ethical boundaries in the wake of the catastrophe of National Socialism: most notably the 1947 *Verbotsgesetz*⁶⁸ (Prohibition Act) which criminalises the promotion or dissemination of National-Socialist activity and ideology and various forms of antisemitism.⁶⁹

There is therefore already a jurisprudential basis for setting legal limits to a range of manifestations of *Verfassungsfeindlichkeit*, including elements of Islamist thought and activity, independent of terrorism or violence. The *Verbotsgesetz* does so, for example, through its position on Holocaust denial and its explicit prohibition of certain symbols and signs. The *Islamgesetz* does it, for example, through its insistence on the primacy of Austrian law. And as matters stand, the BVT identifies actual or potential breaches of these limits in its official reports.⁷⁰ Taken together all this offers a potential model for further legislation covering other political ideologies, movements or practices which are deemed to cross acceptable political boundaries.

Conclusion

No one is claiming that either the Austrian, the German or indeed the French⁷¹ way of addressing threats to the legitimacy of the liberal democratic order is perfect. Many critics have in particular questioned the sense or practicality of outlawing Islamism. And they have a point. Islamism is not one thing but many and its relationship to mainstream Islamic thought and indeed the question of violence or physical force is highly complex.⁷²

But nor is this an extra-legal abuse of human rights.⁷³ It is rather an attempt at a time of great global uncertainty to come to terms with an acknowledgement first that the practice of politics is historically determined and that the liberal state cannot simply be neutral in the face of those who deny the fundamental principles on which it has been built; second that the defence of such a state depends on an ability to articulate what those principles are, to define what it means to agree to abide by them and to combat those who seek to dismantle them; and finally that there is therefore an urgent need to reconcile what Jürgen Habermas has identified as the two faces of

⁶⁵Shi'a Muslims have argued in favour of a separate entity to represent their interests, with no success so far.

⁶⁶See https://de.wikipedia.org/wiki/Islamgesetz_2015 and https://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Integration/Islamgesetz/Islamgesetz_2015_-_Zusammenfassung.pdf

⁶⁷Others include: an obligation for Islamic associations to be registered with the IGGÖ as the umbrella body responsible for their activities; exemption from domestic taxation and the prohibition of foreign financing; provisions regulating the educational levels of imams and an obligation on the state to make provision for Islamic theological studies; the right to religious education together with the obligation to provide educational materials, including the Qur'an, in German; the right to halal food and pastoral care in the military or hospitals and the maintenance of Muslim cemeteries; the protection of Islamic religious holidays and the unhindered/ undisturbed practice of religion.

⁶⁸The text is available at https://www.ris.bka.gv.at/Dokumente/ErV/ERV_1945_13/ERV_1945_13.pdf

⁶⁹Including since 1992 Holocaust denial. A separate antisemitism law is currently under consideration. A provision prohibiting the carriage or use of Nazi symbols served as a model for the subsequent banning of other non-Nazi symbols, including those commonly displayed by certain Islamist and ethno-nationalist groups. Including the Muslim Brotherhood, Hamas, Hizbullah, IS, AQ and the Grey Wolves.

⁷⁰See for example the 2019 report of the BVT at https://www.bvt.gv.at/401/files/VSB_2019_Webversion_20201120.pdf.

⁷¹A draft law on the matter has now been published: for the text see

<https://www.legifrance.gouv.fr/dossierlegislatif/JORFDOLE000042635616/?detailType=CONTENU&detailId=1;>

and for some commentary, *Liam Duffy, Unsurprisingly, Macron's new anti-separatist law isn't fascist, UnHerd, 10 December 2020* at <https://unherd.com/the-post/unsurprisingly-macrons-new-anti-separatist-law-isnt-fascist/>, *France's Macron issues 'republican values' ultimatum to Muslim leaders, BBC News, 23 November 2020* at <https://www.bbc.co.uk/news/world-europe-55001167> and *Cécile Chambraud and Jean-Baptiste Jacquin, Ce que contient le projet de loi sur les « principes républicains » Le Monde, 19 November 2020* at https://www.lemonde.fr/societe/article/2020/11/19/laicite-ce-que-contient-le-projet-de-loi-sur-les-principes-republicains_6060354_3224.html.

⁷²Something discussed extensively by *Jenkins, November 2020*. In addition to the sources cited there, there is a good discussion of the matter by *Christopher J van der Krogt, Jihad without Apologetics, Islam and Christian-Muslim Relations 21/2 (April 2010) 111-26* at https://www.academia.edu/1561833/Jihad_without_Apologues.

⁷³As Islamists - who generally refuse to recognise such rights in their own political theology - often claim. According to *Amnesty International, Austria/France: measures announced by the governments threaten freedom of association, 18 November 2020* at <https://www.amnesty.org/en/documents/eur01/3359/2020/en/> under *European human rights law, "...a dissolution may be justified in light of a close and direct connection between an organization and a crime or the engagement of an organization in activities that constitute an imminent infringement of the rights of others or that fundamentally reject democratic institutions and the rule of law."* That is precisely what the French government claims.

the modern western state – liberal democracy and civic republicanism.⁷⁴ If, as he suggests, “rights are only acquired by socialisation; that membership of the community is not just instrumentally valuable, and that political justifications should embrace ethical considerations”,⁷⁵ then Macron and Kurz have a powerful case.

After all, at the heart of the idea of the state is the puzzle of social order, how it arises, how it constitutes and sustains itself as and within a political community, how it adapts to changing circumstances and who polices it. Social order implies some sort of power to coerce those who overstep moral and ethical boundaries or the rules of acceptable practice and debate within the community. This coercive power is conceived differently - because the state has evolved in scope and shape over time - by the Roman jurists, by Hobbes, by Weber, by Habermas. But they (unlike Foucault, for example) accept its practical necessity. To claim that it doesn't matter what the rules are or that coercive power should not be used to enforce them, is effectively to deny the right of the community to define or protect itself and therefore to exist. This is not to say the rules cannot be changed. But in the contemporary western tradition this is supposed at least in theory to happen on the basis of *isonomia*, the equal right of everyone within the community to an equal say in the matter and - in the Habermasian sense - an equal right to participate in its discursive consideration. That excludes reliance on revelation, which is not accepted by or accessible to everyone in the same way and prescribes rules on the basis of an authority that cannot be interrogated.⁷⁶

It could further be argued that at the heart of the European legal order is the underlying principle that “*imperium is iurisdictio*, the power of stating what is lawful”,⁷⁷ and that this power rests on consent: not, that is, on Schmitt's sovereignty through exception or Islamist revelation, but rationally discovered, ethically interpreted and responsibly applied positive law within a contractual⁷⁸ framework based on secular politics, popular sovereignty in all its contemporary complexity,⁷⁹ civil society and electoral democracy.⁸⁰ And this in turn reflects the experience of both Austria and Germany, which were created in their modern forms out of the catastrophe caused by one totalitarian ideology,⁸¹ rooted in a dangerous form of pre-discursive nationalism, which they have managed successfully to keep constitutionally at bay for the past 75 years by adherence to both the principles of a *Rechtsstaat*, a Civil State of Constitutional Rights and Law,⁸² and the ideal of a *Rechtsgemeinschaft*, a lawful community of free and equal citizens.⁸³

Islamists themselves clearly take the arguments seriously, even if many elsewhere in Europe do not. As the Swedish academic, Michael Krona (who has written extensively on Islamic State propaganda), has pointed out,⁸⁴

⁷⁴See Jürgen Habermas, *Between Facts and Norms* (tr William Rehg), 1997, 468. Gordon Finlayson, *Habermas: A Very Short Introduction*, OUP 2005 is a useful survey of the issues. To suggest that 'multiculturalism' is a knockdown answer to this dilemma evades the issue of how consent to the legal order which provides the conditions for the coexistence of different cultures within a single political community can be procured. For Habermas, “Only those laws count as legitimate to which all members of the legal community can assent in a discursive process of legislation that has in turn been legally constituted.” Habermas 1997, 110. Such law must be open to scrutiny and challenge in a way that law based on revelation, supercessionism or unquestioned authority can never be. And in turn it defines the boundaries of the legal community.

⁷⁵Finlayson 2005 112.

⁷⁶Which, of course is the point of Tariq Ramadan's notorious declaration in 2007, “I will abide by the laws, but only insofar as the laws don't force me to do anything against my religion” (quoted in Rumi Hassan *Dangerous Liaisons: The Clash between Islamism and Zionism*, New Generation Publishing 2013, 185) or Mustafa Abdul Jalil's equally notorious declaration in newly liberated Tripoli in October 2011, that any law contradicting the Shari'ah would be void (I was there). The claim that God or the believers in a particular god deserve special consideration is similarly problematic. It is not at all clear what legal meaning can attach to the concept, 'God', which is by definition beyond human understanding and whose various manifestations show such remarkable variance as to suggest that any human intuition of the concept is inevitably unstable. On what or whose authority, therefore, does the claim that it deserves particular respect rest? In contrast, the criminalisation in certain countries of certain texts, claims or symbolic practices concerning the Holocaust, National Socialism and so forth relate to historically recorded events which caused an observable moral catastrophe. We may not know the meaning of God. But we know the meaning of Auschwitz.

⁷⁷Stein 2017, 60, quoting the C12th School of Bologna. This has, of course, been mediated through a contextual understanding of later political and legal thought: see, for example, *Kant's Social and Political Philosophy*, *Stanford Encyclopedia of Philosophy*, 2016 at <https://plato.stanford.edu/entries/kant-social-political/> and Tom Bingham, *The Rule of Law*, Penguin 2011.

⁷⁸Based that is on the obligations we owe each other rather than God, and the enabling role of the state. See James M. Buchanan, *The Limits of Liberty: Between Anarchy and Leviathan*, Chicago 1975.

⁷⁹Which Habermas, for example, would locate in a discursive and intersubjective public sphere rather than in the classically collective subject. That argues certainly for dialectical debate – but not necessarily for absolute freedoms.

⁸⁰“The rule of law is internally related to deliberative democracy”, Habermas 1997, translator's introduction.

⁸¹It is interesting that Arab intellectuals such as the exiled Algerian dissident, Mohamed Sifaoui, the late Lebanese historian and journalist, Samir Kassim (assassinated in 2005), and the novelist Alaa al Aswani have characterised various forms of Islamism as “fascist”; see Jenkins, November 2020 and Rumi Hassan 2013, 192ff. It is, of course, the subject of an entire book – *Der islamische Faschismus* - by the Egyptian-German controversialist, Hamed Abdel-Samad, *The shared genealogies of European fascism, antisemitism and various forms of Islamism* are interestingly explored by Stephen Grigat, Adorno and Iran: Critical Theory and Islamic Antisemitism, Fathom, December 2020 at https://fathomjournal.org/fathom-long-read-adorno-and-iran-critical-theory-and-islamic-antisemitism/#_ednref90.

⁸²The US case is analogous, but with a different approach to religion reflecting the specific historical experience of the emergent state: the First Amendment specifically prohibits the establishment of religion – which in itself instantly sets the Constitution at odds with Islamism, which seeks precisely that.

⁸³Finlayson 2005, 123.

⁸⁴https://twitter.com/globalmedia_/status/1328254132000600068?s=11

the recent announcements of legal measures in France and Austria have been closely followed by Salafi groups online, who seek to combat such responses by deploying doctrinal arguments to discredit the terms *Political Islam* and *Islamism* and therefore cast doubt on the reality of the threat the measures are designed to address.⁸⁵ Others make a similar conflation of Islam and Islamism, even though both Kurz and Macron, in spite of some clumsiness of expression⁸⁶ and some deliberate misinterpretation, have clearly sought to distinguish the two. In doing so, the critics of the latter perhaps hope to deflect attention away from both Islamist violence and Islamist attempts to forge ideologically separatist communities, which substitute a sectarian self-understanding for the “constitutional patriotism” that Habermas has identified as the escape route from obscurantism. Both are in their different ways deeply damaging to social cohesion and to the idea of the liberal democratic state. And both are enabled by the ability of Islamists to hide in plain sight. So the fact that they and their sympathisers have become so vocal in their protests perhaps tells us something. That in itself should encourage us to persist.⁸⁷

⁸⁵Another tactic is to suggest that the new legal measures themselves are violations of human rights: see *Rights group: Austria carries out 'politically-motivated' violations against Muslims*, *Middle East Monitor*, 21 November 2020 at <https://www.middleeastmonitor.com/20201121-rights-group-austria-carries-out-politically-motivated-violations-against-muslims/> and *Die Universität Salzburg distanziert sich von den Äußerungen des Politologen PD Dr. Farid Hafez*, *MyScience*, 23 November 2020 at https://www.myscience.at/news/wire/die_universitaet_salzburg_distanziert_sich_von_den_aeusserungen_des_politologen_pd_dr_farid_hafez-2020-uni-salzburg. See also Norimitsu Onishi and Constant Méheut, *France's Dragnet for Extremists Sweeps Up Some Schoolchildren, Too*, *The New York Times*, 23 November 2020 at <https://www.nytimes.com/2020/11/23/world/europe/france-extremism-children.html>.

⁸⁶The occasional emphasis on the 'reform of Islam' is probably a misinterpretation and certainly a mistake. It is also not the point.

⁸⁷And examine further thoughtful contributions to the debate such as that in *Die Welt 2020* or the *Werteinitiative Positionspapier Islamismus* at <https://werteinitiative.de/positionen/positionspapier-islamismus/> and <https://werteinitiative.de/positionen/diskussionspapier-islamismus/>.



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