Religious Toleration and Peace

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Reports on historical peace treaties and agreements

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Introduction for teachers and educators

The 21 historical documents represented in the historical clippings represent diverse kinds of sources: edicts, treaties, agreements, declarations and constitutions. They date from the 3rd century BCE to the 21st century and stem from regions in Asia, Arabia, Europe and North America; many of them are not limited to the region of their origin, but generated global outcomes. This selection represents a sample of documents for the history of religious toleration and peaceful cohabitation of people adhering to different faiths and beliefs. They provide examples for how rulers, communities, legislators and diplomats dealt with problems that originated from religious conflict, how they developed preventive strategies, and how they tried to find positive ways of living together and enabling tolerance: Documents, which influenced – on short or long terms – the following eras in a positive way. They proved to be milestones on the way towards religious toleration and peaceful cohabitation.

Each of these documents and treaties originated in a particular historical, social, religious and geographical situation. They are hence discussed in single *reports* that take into account these situations and try to explain the particular circumstances of their origin. A short overview over the *basic facts* allows for quick orientation; a section on the *context* enlightens the background in which the documents were written, agreed on, or issued. This part is supposed to shed light on the particular historical situation and to allow for contextualization of texts, which are in many cases not easy to understand today. The next section focuses on the *key aspects* of each treaty or document. It provides a *comparative* approach to the meaning of the different texts showing parallels and influences between the separate cases and drawing lines of comparison over temporal and geographical differences. A final section of every report comments on the *contemporary relevance* of the respective documents, making them more accessible for a reader today. The overall approach of the reports is yet generally a historical one. The final section of each reports offers recommendations for further reading on the topic.

General outcomes

In each of the reports, the key aspects of the treaties are discussed in a comparative way while highlighting the distinctive features. Besides these comparative references per treaty, the 21 treaties have also been connected to each other in seven clusters. These clusters group related documents with respect to regional and thematic aspects:

- The Peace of Augsburg, the Warsaw Confederation, the Religionsvrede in the Low Countries, the French Edicts of Saint Germain and Nantes as well as the Peace of Westphalia (Western and Central Europe); thematic range: Confessionalisation, territorial segregation, religious toleration and the secularization of international relations
- The Pacts of Toleration and the regulations of the French Revolution (Europe, with impact on other parts of the world); thematic range: domestic secularism and religious freedom
- The Constitution of Medina, the Stipulations of Umar, the Toleration towards minorities in Ottoman countries (Arab world, southeastern Europe; El Andalus/Iberian peninsula);

thematic range: toleration and inequality in Muslim lands with a diverse population

The Charter of Rhode Island and the US First Amendment (Colonial North America / USA); thematic range: Freedom of religion as a combination of divine imperative / Enlightened pragmatism

The Ashoka's Edicts; Akbar the Great's Settlements (India); thematic range: Freedom of religion "beyond tolerance"/ non-exclusive views on religion and spirituality

The treaty of the Vienna Congress; the Paris Peace Treaties; the League of Nations Minority Protection (Central and Eastern Europe/USA); thematic range: Religion in International Law; Assimilation; Minority protection and deportations

The European Convention of Human Rights; The European Union's Charter of Fundamental Rights, the settlement of the conflicts in Northern Ireland and in the states of former Yugoslavia (Western and Eastern Europe / EU); thematic range: Human Rights, Freedom of religion; 'privatization' of religion,

Besides these clusters, several points of comparison, as well as common and distinctive features can be found in parts of the corpus.

A general comparison of the 21 treaties may be performed by considering them on a spectrum between arrangements that have universal claims and aspirations, and on the other end treaties that primarily aimed at solving a conflict that took place in a specifically circumscribed place. However, when applied to the cases under scrutiny here, it becomes clear that the validity of this theoretical division is limited. A careful analysis reveals that treaties that may be considered as being guided by universal principles such as the Declaration on the Rights of Man and of the Citizen, are in fact also very much outcomes of concrete and often local problems and tensions. On the other hand, treaties such as the Belfast Agreement that are aimed at pacifying concrete local conflict almost always also invoke general principles. A clear categorization along this line is thus not possible. Yet, each of the 21 treaties seem to contain parts of these two aspects.

A second axis upon which the 21 treaties may be compared is that of their top-down development and implementation versus a bottom-up genesis and execution of the agreement. Treaties such as the Charter of Rhode Island demonstrate that also along this spectrum a clear categorization is difficult. However, cases such as the Edict of Saint-Germain demonstrate that the interplay between governing elites and middle-groups and local elites was crucial for the success of a treaty, and that problems related to these dimensions were often causes for the failure of treaties.

A third frame that may enlighten the comparison between treaties that sought to create or solidify religious peace is a focus on the role of individuals and their ideas and that of collective bodies and middle groups. The Ashoka edict, Akbar's settlement, and the Charter of Rhode Island, a project strongly driven by Roger Williams, all were the result of individuals who developed original ideas about religious coexistence and tolerance, which they then turned into legislative texts. Moreover, this comparative focus also allows to focus on the role of individual women in the development of peace settlements, such Catherine de Medici's role in issuing the peace of Saint-Germain. Besides individuals, also collective bodies, such as the Estates of the Low Countries (Religionsvrede), the Polish national Sejm assembly

(Warsaw Confederation) or the French National Assembly (Declaration of the Rights of Man and the Citizen) played a key role in the genesis of treaties. Also here the role of gender in these collective bodies may be scrutinized.

Another way of differentiating the treaties is by the number of religions concerned: Some treaties deal with conflicts which arose between members of the same religion adhering to different confessions or currents. This is the case with all European treaties between 1555 and 1648, but applies also to the Belfast Agreement. Whether this distinction also appertains to Ashoka's edicts is subject to discussion. Others address situations in which members of many different religions live together, starting with the Constitution of Medina and ending with the most recent one, the Charter of fundamental rights of the EU. The examples show that conflicts between confessions or closely related religions are neither less violent than between different ones nor easier to resolve.

Despite the grouping of the treaties and documents discussed in RETOPEA into thematic, temporal and regional clusters, the analysis of the 21 cases allows for drawing several historical lines, thus avoiding to develop a predominantly Western tradition of religious tolerance. When looking at the non-European approaches like Ashoka and Akbar in India, Medina and Umar in the Islamic world, particular American developments like the Charter of Rhode Island or the First Amendment, or documents with global claims of validity like the League of Nations charter, the selection shows alternative lines of transmission how ideas of toleration developed through the ages.

An important point of comparison between all texts is the concept of the political role of religion(s) contained in them. In the premodern case studies religion and politics are not understood as separated spheres but as intertwined, if not identical areas. The emerging modernity fostered notions of secularization which have changed this close connection in many countries. In times of religious conflict, steps towards the separation of state and religion opened up ways to regain political unity despite religious division. Enlightened ideas further developed this concept of separation, which eventually ended in the idea of the neutrality of the state in all religious matters and religion as a private matter of the individual. But this process is neither irreversible nor uncontested. The historical documents in the sample testify to all possible stages in the complex relationship between religion and politics and point to a wide variety of solutions to contain conflicts. Not all examples are helpful and adaptable for today's problems, but they all represent attempts to cope with specific constellations from which lessons can be learned.

A final point of discussion in all reports and hence a point of comparison between them is the importance of the documents for today's readers: Some of the 21 texts are still official documents with a legal status like the First Amendment or the EU charters, while others have entered into a corpus of religious texts like the Constitution of Medina. Some are officially declared to belong to the UNESCO charter of "Memory of the World" like the Confederation of Warsaw, others are known today only to a few experts. Some can be interpreted as forerunners or milestones in the history of religious toleration, others can surprisingly gain new relevance – like the Westphalian Peace as a model for the conflict in Syria today – or even get endangered by recent developments like the "Brexit's" consequences for the Belfast Agreement of 1998. But every document, in its historical importance, its content and the ideas

formulated in it, bears witness of examples of religious tolerance and peaceful cohabitation of more than 2000 years which can be inspirational for today.

Ashoka Edicts

Basic Facts

Involved parties: Emperor Ashoka.

Date: Third century BCE.

Place: Central Asia; Indian Subcontinent.

Applies to: Subjects of the Maurya Empire.

Main outcomes: Historians are unsure about the outcomes of these edicts in the third century BCE itself, although Ashoka ruled for a long period and his empire is largely considered a stable one. In modern times, however, Ashoka was recuperated as a pinnacle of Indian history, leading to his incorporation in national images and national debates.

Context

Ashoka's edicts fit in the context of the Indian Maurya Empire, founded by Chandragupta Maurya in the late fourth century BCE. At its largest, this empire included most of the Indian subcontinent, spanning from the east of present-day Iran to present-day Bangladesh. It incorporated many different cultures, including Greek elements due to the conquest of remnants of the empire of Alexander the Great. Persian influences were also noticeable.

Ashoka was the third ruler of this empire, ruling from ca. 268 to 232 BCE. At the beginning of his life as Emperor, Ashoka waged expansionist wars, which earned him a reputation of cruelty. However, the brutality of the Kalinga war, whereby his own troops killed and deported thousands of people, allegedly made him reflect on his own life and rule. He converted to Buddhism and promoted the spread of this religion across the Indian subcontinent. This propagation included, for example, a large building policy and the sending of missionaries.

Although this background is generally agreed on by historians, it should be noted that it is not easy to determine the specifics of Ashoka's early rule. As with most events from this period, historians do not have a great many sources that directly relate to the life and times of Ashoka. Most sources that tell scholars something about Ashoka were only written down centuries after his death, and many of them were influenced by legends and myths. It is therefore rather difficult to be absolutely certain about the rule and impact of Ashoka.

However, one source that most certainly stems from the third century BCE are the so-called Ashoka Edicts. These texts were rediscovered between the late eighteenth century and the mid-twentieth century and can be found in dozens of locations, scattered across Asia. There have been, for example, found edicts in contemporary India, Nepal, Bangladesh, Pakistan and Afghanistan. The texts are also written in different languages, depending on their location – the British archeologist and historian James Prinsep decoded most of them in the course of the nineteenth century. Importantly, the edicts form the earliest decipherable corpus of written texts in India, making them of particular importance for the Indian national image.

The Ashoka Edicts were inscribed on rocks, cave walls and specifically designed pillars. Those texts that were written on rocks were mostly placed along the borders of the empire;

those on pillars were placed in cities or along major interior roads. This way the message of the Emperor could reach everybody: subjects and non-subjects could see them when travelling across the borders of the Empire; when using the major roads; or when entering or living in a major population centre. In this sense, historians have linked the edicts to the state-building efforts of Ashoka, whereby the ethical frame of the edicts would also form a frame for participation in the state. The goal was to infuse state power with some ethical transient principles, which were bigger than the ruler and would span the differences encountered within the Empire.

In total there are thirty-one edicts, which scholars have divided into four categories: three minor rock edicts; five minor pillar edicts, fourteen-plus-two major rock edicts; and seven major pillar edicts. (note: several edicts can be found in different places, so there are more than 31 locations where the edicts have been found). The minor rock edicts are quite general and focus mainly on Ashoka's position as a Buddhist ruler. They were also the earliest edicts to be written down, and were succeeded by the minor pillar edicts and the major rock edicts. The minor pillar edicts deal with history, the position of the queen, and the restoration of unity after an apparent religious schism. The major pillar edicts again have a varied context, including the principles of Buddhism; animal welfare; the welfare of subjects; and the tasks of officers.

The most important of Ashoka's edicts where the fourteen major rock edicts, which are considered to have been engraved between the minor and the major pillar Edicts. In contrast to earlier edicts, the major rock texts contain less detail about the Emperor's life or religion. Instead they contain practical rules for life in the Empire, almost amounting to laws. The concept central to the major rock edicts is that of dhamma, which has several meanings attached to it. In this context, however, the most important aspect of dhamma was that it was supposed to form the core of civility within the Empire – put differently, the concept that determined acceptable norms of behaviour.

The list of topics addressed in the major rock edicts is again quite varied. For example, major rock edict I deals with the slaughter of animals; major rock edict II with medicine; and major rock edict III with the spreading of dhamma across the Empire. Others deal with the treatment of slaves; policies towards the commoners; ceremonies; the contrast between the desire for fame and glory and the dhamma; and other inscriptions found elsewhere in the Empire.

Two of the major rock edicts, VII and XII, also deal with religious tolerance. Number VII states that the Emperor allows all pashandas (religious sects) to reside everywhere and promotes self-control amongst people. Historians have argued that this edict might have been directed at the leaders of the pashandas, and not at the individual believers. For example, the scholar Rajeev Bhargava argued that, through major rock edict number VII, Ashoka allowed these leaders to travel freely across the empire and to try to convert the members of other pashandas. This free movement of ideas would have ensured a level playing field between the different religions in the empire, making them feel less insecure about each other, and would therefore have stimulated civilized debate.

Major rock edict XII is considered to be much more specific than number VII, but the message of both religious edicts strongly connects. Edict XII allows all religious sects to promote themselves, but this promotion should happen in a moderate manner, without either insulting

the other sects or without praising your own religion beyond reason. In essence, it contained a plea for self-restraint on the part of religious people, again trying to promote civilized debate about sectarian differences. The strong focus of both edicts on debate and on self-imposed speech restraint has led historians to believe that the third century BCE must have been a period of fierce strife between different religions. As Hinduism split into related religions such as Buddhism, and these offshoots of Hinduism in turn splintered further and further, the estimate is that contrasting rituals and minor differences in theology became causes of public discord. Possibly, Ashoka wanted to prevent the further splintering of religions and end the focus on ritualistic discord. This would explain his focus on civility in religious discussions and his promotion of dhamma, which could be seen as a central 'core' that all religions shared, despite their different beliefs about what constituted 'good' religious practice.

Finally, it should again be stressed that we have very little certain about the background to the major rock edicts VII and XII. Beyond the above estimate, we know very little about the context or the reasons why Ashoka felt the need to propagate his edicts regarding religion. Moreover, it is not even entirely certain that Ashoka was the first and final author of the Edicts. Most scholars agree that the edicts appear to have been written down as the words of Ashoka himself, as they lack the more formal language of other royal edicts or proclamations from the ancient world. But other authors are not certain about this identification, noting some contrasts with the minor and major edicts found elsewhere.

Key Aspects (Comparative)

The Edicts of Ashoka are the oldest texts included in the RETOPEA framework. Logically, many of the source problems encountered with the Edicts are comparable to those encountered with the Constitution of Medina and the Pact of Umar, which are also considered to be 'early' sources. Discussions about the authorship and context of these three sources are manifold, leading to relatively open interpretations about their contemporary meaning. Additionally, the Ashoka edicts are not paper documents but inscriptions on rock and stone, meaning that they can also be considered as archaeological sources.

The RETOPEA-document that has the closest relationship to the Ashoka Edicts is the settlement of Akbar. One obvious observation is that the Maurya Empire of Ashoka and the Mughal Empire of Akbar largely shared their location, albeit roughly 1800 years apart. More important is that both Emperor's tried to stimulate debate between different religions and that they both identified a 'common core' that all religions shared. Both Emperor's not only sought pragmatic rules for religious coexistence, but also underpinned these laws with a peculiar religious philosophy, centred on unity.

However, an important difference is that Ashoka tried to maintain good relations between religions that stemmed from a common core, whereas Akbar's interest included faiths that shared little. Scholars such as Radha Kumud Mookerjee, for example, have indeed pointed out that Buddhism and Jainism stemmed from the same root, namely Hinduism, which facilitated tolerance between them. Ashoka could use these ties to point out common elements, an advantage Akbar did not possess. Mokerjee argued that the differences between Islam, Christianity and Hinduism, religions which Akbar encountered, where much greater than those of the religions that Ashoka tried to pacify. Still, it should be noted that not all historians agree

with this: for example Rajeev Bhargava maintains that Ashoka likewise faced major religious differences when ruling.

The Indian example of Ashoka is also one that offers a stark contrast with the European or 'Western' cases included in RETOPEA, exactly because the context is far removed from European historical traditions of tolerance. Ashoka had contact with Greek and Persian culture and vice versa, but even then the contacts would have not necessarily implied a shared philosophical approach. The Ashoka edicts thus have the potential, again much like Akbar's settlement, to confront European audiences with unknown histories of tolerance.

Contemporary Relevance

Ashoka has assumed great importance in the Indian nationalist movement. Ashoka represents both a moment of national pride, as ruler of great Indian Empire, and a forbearer of Indian unity in diverse circumstances. This national focus on Ashoka has also gained a visual component, for example the Indian national emblem, the so-called Ashoka Chakra.

Still, given the rather uncertain background of Ashoka and his edicts, it is difficult to derive immediate 'lessons' from the Ashoka period. On the contrary: because there is little certain about the Edicts, politicians and political influence groups can recuperate them for their own purposes.

Beyond this, and as was mentioned above, the radically different historical context of the Rock Edicts can offer alternatives to contemporary views on religious tolerance, or force audiences to consider such alternatives.

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Clippings

- The Emperor and the Rock
- All religions everywhere
- Ashoka insults no one
- Ashoka rules that you should learn about other religions
- Ashoka’s Rock in a Pakistani town
- Is tolerance always the same?
- Monks who do not like divine power
- Ashoka’s edicts filmed

Constitution of Medina

Basic Facts

Involved parties: The Prophet Muhammed; followers of Muhammed expelled from Mecca; the polytheist Aws and Khazraj tribes and their affiliated tribes (including several Jewish groups).

Date: 622 until ca. 630.

Place: Yathrib/Medina.

Applies to: Followers of Muhammed expelled from Mecca; the pagan Aws and Khazraj tribes from Medina and their affiliated tribes (including several Jewish groups).

Main outcomes: the formation of the Ummah (federation, community of believers) under Muhammed and thus the survival and even expansion of Islam as a religion. Another results was the rearrangement of the power structures in and around Medina.

Context

The Prophet Muhammed originally preached his new religion, Islam, in the important polytheistic city of Mecca. In 622 he encouraged his followers to leave Mecca for the nearby city of Yathrib, where a small community of Muslims would welcome them. Eventually Muhammed and his closest friends joined them there, narrowly escaping a murder plot by the hostile Meccan elites. In contrast, the leaders of Yathrib and its tribes welcomed the Prophet and allowed him and his followers to settle in their town. One reason why they agreed to this was that the most important tribes of Yathrib had recently fought a bitter war, which led them to invite Muhammed as an arbiter and peacemaker between them. Eventually, Yathrib would be renamed 'City of the Prophet', or Medina.

The forced move from Mecca implied that Muhammed and his followers needed protection against reprisals from Mecca. They found this protection under the wings of the tribes of Medina, but this realignment of relations needed to be sufficiently clear to everyone involved. Therefore, Muhammed and his followers needed to craft living arrangements with the original population of Medina. This balance between newcomers and original inhabitants was struck through several treaties between Muhammed and the two largest tribes in Medina, the Aws and the Khazraj, both of which were in origin pagan polytheists. The Jewish allies of the Aws and the Khazraj were also included in this arrangement, albeit not necessarily as principal parties (except for additions regarding the status and protection of the Jews). These arrangements are known as the Constitution of Medina – 'constitution' here being a possibly confusing translation of *Kitab* ('document' or 'compact').

Important to note is that the agreement shifted the religious and legal power structure in Medina and between its tribes. Beyond establishing mutual protection between all tribes involved (regardless of whether their members were Muslims, pagans or Jews), the Prophet Muhammed (and therefore Allah) was named as the highest arbitrator in the entire city. In this sense the two treaties formed the basis for what Arabist R.J. Serjeant calls a 'theocratic confederation' or *ummah* in Medina, a term that later came to stand for the entire Islamic

community. In the years after 622, Muhammed and his followers were successful in expanding this ummah, increasing both the power and influence of Islam and the Prophet.

The Constitution of Medina is in fact not one document, but is composed of eight different treaties written in (approximately) the first seven years of Muhammed's stay in Medina. There can be found many versions of the Constitution in which the eight treaties are merged into one text, but one should be careful with these. Often these later versions are highly simplified, with changes that have sometimes modified the historical meaning of the original treaties. One reason for this is that it is only by modifying some parts of the eights texts that a single, coherent 'constitution' can be produced. Another is that the eight treaties in later centuries gained such an important standing that their content increasingly became imbued with fundamental principles. Those principles would not necessarily have been exactly the same in 622, but instead reflect values that later commentators have attached to them. For example, it is only much later that these seventh-century treaties were seen as so fundamental that they received the label 'constitutional'. As a self-reinforcing mechanism, the fact that most modern constitutions are one document and not eight stimulated the tendency to comment on the Medina agreements as if they formed one clear, unified, fundamental and highly principled text.

In contrast, most academic specialists nowadays agree that the Constitution of Medina was not a unified text but existed as a composition of interconnected arrangements that were modified whenever previous versions broke down or needed to be clarified. Moreover, the treaties were drafted much more *ad hoc* than that they were principled, and many of its provisions are based on existing legal traditions. The eight treaties mainly aimed to ensure the security of Muhammed and his followers, as well as settle the practical power-sharing systems in and around Medina. So although one can rightly argue that the Constitution established a certain form of toleration between Muslims and Jews, many historians have pointed out that this toleration flowed from the regular dealings between Arabian tribes and not necessarily from a clear and novel principle of Islamic tolerance.

The first treaty of the Constitution of Medina settled the relations between Muhammed, his followers, and the Medina tribes. The second document is an addendum to this treaty, expanding the rights of Muhammed's followers and the legal and religious role of Muhammed himself. The third document was probably written around five months after Muhammed's flight from Mecca and deals specifically with the position of the Jewish allies of the Aws and Khazraj. It should be noted that this document, nor any of the other parts of the Constitution of Medina, mentions that the Jews paid any special tax because of their religion – they paid the same amount as the other members of Muhammed's *ummah* – something which in later centuries would change. The fourth document is a further clarification of the legal position of the Jews and some of their associates, expanding on what had been agreed before. The sixth document mainly relates to the creation and protection of a holy place. The seventh is situated in further warfare between the Muslims, their allies and the Meccans. The Jewish clients of the Aws are briefly mentioned in it, receiving a third confirmation of their protected legal position within the ummah established in 622. The eight and last document includes some more broad legal principles, without mentioning the Jews or any other religions specifically.

The fifth document is especially important because it highlights the specific context of the Constitution when it comes to the relations between Jews and Muslims, and because it reveals the rapid changes in that interfaith context. After the battle of Badr in 624 between Muslims and Meccans, some Jews of Medina started to side with Mecca, probably because they feared that Muhammed's actions would upset the lucrative caravan trade. After a prominent Jew was murdered, possibly after insulting Muhammed, the larger Jewish community felt threatened and wanted to renew the arrangements concluded in 622. In this they were supported by their polytheist superiors, who equally petitioned Muhammed to confirm the arrangements struck earlier. Muhammed agreed to this confirmation of mutual protection, which led to the drafting of the fifth document considered part of the Constitution. Nevertheless, in the following years the relations between Muhammed and the Jews of Medina further soured, eventually leading to violent conflicts and the expulsion of many Jews from Medina.

Finally, it should be noted that studying the Constitution of Medina and its context is not an easy thing to do. Although the authenticity of the eight documents is not doubted – they are indeed the texts of the agreements that were concluded between the Muslims and the original tribes of Medina – scholars lack other sources that can objectively contextualize how and why the Constitution was concluded. The two main sources historians have available are the Quran and the Sira (a collection of the earliest biographies of the Prophet), both of which are as much religious as historical sources. It is therefore very difficult to ascertain things as 'certain', something which is compounded by the fact that subsequent generations of believers have molded some of the (potential) sources to fit their own interpretation of Islam (historians encounter similar problems when they try to establish certainty with regard to the life of Jesus). To illustrate this problem, one historian, Patricia Crone, has suggested that everything the Sira contains regarding the position of the Jews should be considered untrue, whereas the majority of historians, including the mentioned R.B. Serjeant, consider the Sira a broadly believable source. This debate is worsened by the fact that, as P.L. Rose pointed out, "we do not have a shred of evidence from the Jewish side", something which could have offered scholars another perspective on the intent and impact of the Constitution of Medina.

Key Aspects (Comparative)

As was highlighted, a first important comparative aspect about the Medina Constitution is that it cannot be considered a constitution in the contemporary sense. Much like the Westphalian peace agreements, which were also considered to be 'constitutional' in nature, the texts of the Constitution of Medina were much more diplomatic in nature. They established new working relations between previously unassociated entities, in this case different Arabian tribes, and those entities maintained at first much of their original independence. In contrast to more recent constitutions, the Medina documents did not aim to provide a definitive set of legal principles that applied to everyone of a particular nation or to everyone with a specific territory, but first and foremost wanted to outline the rights and responsibilities within a new tribal diplomatic alliance against the Meccans.

Importantly, it should be noted that the Constitution of Medina reflects directly on the life of the Prophet and the earliest establishment of what is today a world religion. This direct

connection with the actual faith of believers is not present in the other sources of the RETOPEA framework.

Contemporary Relevance

The fact that the Constitution of Medina is not only a historical source but also a religious one has important implications for its contemporary relevance. Whereas for most documents in the RETOPEA framework it is largely possible to separate the past and the present meaning of a text, this is much harder for the Medina Constitution. For many believers the Constitution of Medina is not a document situated in the past, but a 'living' text part of their religious experience. Judging the Constitution therefore equals judging one of the earliest political accomplishments of the Prophet. Likewise, commenting on what this source has to say about the Jews is also commenting on the earliest relations between Muslims and Jews.

Starting from this position, a few other elements can be highlighted. Firstly, the Medina Constitution is often flagged as the primary example of religious tolerance within Islam, especially towards Jews. This view is not only shared between Muslims and Muslim theologians, but is an interpretation present in academic debates, where the Constitution is sometimes even linked to the existence of a pre-modern Arab-Islamic human rights tradition. So in contrast to the more *ad hoc* political arrangement many historians see in the Constitution, in contemporary debate the text has come to stand out as pillar of Islamic tolerance and coexistence with different religions.

This contemporary interpretation and value of the Medina Constitution is a crucial one, yet the historical record of this tolerance can also lead to more far-reaching conclusions. For example, the Constitution is often seen as a grant of tolerance of the Prophet towards the Jews. Following Serjeant, however, the historical record actually indicates that the Jews were fully included in Muhammed's earliest ummah, albeit as a lesser party compared to the Aws and Khazraj tribes. The inclusion of Jews in the earliest version of what is today the community of Islamic believers gives another perspective on the issue of tolerance.

It should be noted that this narrative of tolerance is confronted by a counter-narrative of antisemitism, given the later violence between Muslims and Jews and the eventual expulsion of many Jews from Medina. In line with the classic view of the Lebanese legal scholar Antoine Fattal, however, the historian of Abrahamic religions Guy Stroumsa emphasizes how early Islam followed practices towards Jews that Christian emperors had introduced after Christianity became state religion in the Roman Empire in 380 AD.

Finally, one may observe that debating this topic automatically reflects on the contemporary perception of Islam as well. If one follows the 'tolerant' line one can argue that Islam was from the start a highly and originally tolerant religion; if one follows the 'antisemitic' line one often sees confirmation of the argument that Islam was a violent religion from the outset. Whatever one's personal opinion, how one sees the Constitution of Medina is quickly interpreted as a judgement on the present.

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Clippings

The Constitution of Medina

Religious diversity and the protection of Jews in the Constitution of Medina

Reassurances or paper protection?

Secret meetings

Expulsion from Medina

Rabbi Finhas vs. Abu Bakr

Pact of Umar

Basic Facts

Involved parties: Muslim rulers and 'People of the Book'.

Date: Uncertain.

Place: Uncertain, somewhere in Syria or the Levant.

Applies to: the Christians of a recently conquered city; thereafter all people belonging to one of the religions of the book (i.e. Jews and Christians).

Main outcomes: The Pact of Umar forms the basis for the subsequent treatment of Jews and Christians in the Islamic world. Although actual practices could diverge starkly across time and space, most of these were implicitly or explicitly connected to the principles outlined in this seventh-century document. Most famously, it therefore is considered to be the point of origin for the protected dhimmi-status enjoyed by Jews and Christians, a status that is still debated today.

Context

The Pact or Covenant of Umar, also known as the Stipulations of Umar, is often referred to as establishing the basic principles of dealing with non-Muslims in Islamic lands. However, the Pact in principle only refers to People of the Book (*Ahl al-Kitab*), i.e., Jews and Christians (as well as Sabians, though it is unclear to whom this refers), those religions that shared sacred scriptures with Muslims, the Gospel and the Torah. Only they can claim the status as *dhimmis*, which entitled them of protection, upon condition to accept and abide to the predominance of Muslims and to follow certain rules, among which paying a religious tax, the *jizya*. In practice the regulations for People of the Book have been extended to other religions as well, in the first place to Zoroastians, as they have a sacred book as well, but also to Buddhists and Hindus. The status of *dhimmi* goes back to the time of the Prophet Muhammad himself and references to it can be found in the *Quran* as well. The Pact of Umar, however, systematizes these regulations and served as a legal base for centuries. It remains even relevant for Muslims up until today.

There exist different versions of the text, which presents itself as a 'petition' or 'letter of submission' of one conquered people – usually Christians – to 'Caliph Umar' in which they subject themselves to the Caliph's rule in return for the safety of their lives, family and property, and agree to follow a series of practical rules. Islamic tradition ascribes the original Pact to the second caliph, Caliph Umar (r. 634–644), but historians today very much doubt if he actually issued it or even if he was the addressee: it could also be the eighth Umayyad caliph Umar II (r. 717–720), or ascribed to 'Caliph Umar' later to give the text a historical legitimation and authority.

We have very little sources remaining from the seventh century and many of them have been only been passed on trough books from a later date. Specifically, historians lack an original version of the Pact and can only study its contents through texts written down in the ninth century or later. This means that scholars have seriously questioned whether or not the rules of the Pact were actually applied in the seventh century and if Caliph Umar was their main

author. Some scholars have argued that the Pact of Umar was in effect a document drafted by legal scholars who wanted to link ninth-century practices towards Christians and Jews to the earliest history of Islam; others have argued that the rules of Pact did accurately represent how seventh-century Muslims dealt with their large non-Muslim population. The text of the Pact is indeed not so different from other, similar sources including the treaties of surrender that other Christian cities had signed with Muslim commanders in that time. Finally, scholars who see the Pact as genuine argue that the self-imposed rules of the Christians also reflect seventh-century Byzantine rules for Jews.

Notwithstanding these issues, there is actually little doubt that the main context for the Pact of Umar is the expansion of Islam in the centuries after the death of the Prophet Muhammed. After his passing in 632, Muhammed was succeeded as Islam's ruler by Abu Bakr, who was the first of the so-called Rashidun Caliphs. Abu Bakr continued Islam's military expansion in the Arabian Peninsula, but he died already two years after his succession. His role as Caliph was taken over by Umar, who continued the expansionist policy, moving Arab rule towards the Persian territories of the Sassanid Empire and to the lands possessed by the Byzantine Empire. Umar certainly benefited from the fact that in the previous decades the Byzantines and Sassanids had virtually exhausted each other in their own wars and from the fact that neither empire expected to be threatened by the supposedly disunited Arab tribes. Both of these factors allowed Umar to start an impressive campaign of rapid conquests, establishing his rule from North-Africa to Afghanistan and from Yemen to the Caucasus. On top of this, Umar's governmental initiatives and reforms ensured the stability of these conquests, created a true empire headed by Arab Muslims within a decade. Umar himself died in 644.

The expansion of Islamic/Arab rule at such a dizzying pace also meant that the Caliph and his fellow Muslims were now responsible for ruling large populations of non-Muslims. Both the Prophet and his first successor had encountered different religions in Arabia – these were mainly pagan and polytheistic tribes as well as Jews and Christians. In contrast many of the lands the Muslims conquered under Umar were dominated by Jews, Christians and Zoroastrians. The question of how to deal with these large non-Muslim populations was thus a key question for the early rulers of Islam.

Interestingly, the second Caliph deemed a policy of mass preaching or mass conversions to be the wrong answer to this problem. The reason for this was twofold: 1) the conquests of Umar were in the first place aimed at establishing political rule over new territories, conquering new and fertile lands that benefited the united Arabs, and did not stem purely from religious zeal. 2) As government positions in the empire and the associated benefits were largely restricted to Arab Muslims, who as a group had gained much from the wars, this group was not really inclined to expand its membership. The more people accepted Islam, the more people could claim a stake in the wealth of the empire, something which prompted many to maintain a clear difference between the minority of Arab Muslim rulers and the majority of non-Muslim subjects. Instead, Umar pursued a policy of religious tolerance, albeit on the clear condition that non-Muslims needed to accept the political and legal dominance of Islam.

The Pact of Umar outlines the core of early Islam's approach to *dhimmis*. Yet, the interpretations of those legal scholars could also diverge starkly, giving certain elements of the Pact more or less weight, or combining its general rules with more specific pre- or proscriptions, and leading to divergent practices of tolerance across the Muslim Word.

In terms of content the Pact lists a range of rules to abide by. Amongst those were building restrictions; the obligation to accommodate Muslim travelers; the promise to act against spies hostile to the Muslims; a ban on teaching the Quran to non-Muslim children; limitations on religious activities and festivities; and several rules aimed at keeping a visual and titular difference between Muslims and Christians. In the centuries that followed these rules became the basis for the dhimmi-status of Christians and Jews. As was stipulated by the Pact of Umar, the dhimmis enjoyed protected status as long as they observed several regulations that lessened their status compared to that of Muslims. Amongst those was also the payment of *Jizya*, a special tax imposed on Christians and Jews. This status endured well into the nineteenth century, and is even considered relevant today.

The Pact of Umar[1]

> Abd al-Rahman b. Ghanm related: When 'Umar b. al-Khattab, may God be pleased with him, made peace with the Christian inhabitants of Syria, we wrote to him as follows:
>
> In the name of God, the Merciful and Compassionate.
>
> This is a letter to the servant of God, 'Umar, the Commander of the Faithful, from the Christians of such-and-such city.
>
> When you came against us, we asked you for a guarantee of security (amān) for ourselves, our offspring, our property, and the people of our religious community (milla), and we undertook the following obligations toward you, namely:
>
> - We shall not build in our cities or in their vicinity new monasteries, churches, hermitages, or monks' cells, nor shall we repair, by night or day, any of them that have fallen into ruin or which are located in the quarters of the Muslims.
>
> - We shall keep our gates wide open for passersby and travelers.
>
> - We shall provide three days' food and lodging to any Muslims who pass our way.
>
> - We shall not give shelter in our churches or in our homes to any spy, nor hide him from the Muslims.
>
> - We shall not teach our children the Qur'an.
>
> - We shall not hold public religious ceremonies.
>
> - We shall not seek to proselytize anyone.
>
> - We shall not prevent any of our kin from embracing Islam if they so desire.
>
> - We shall show deference to the Muslims and shall rise from our seats when they wish it.
>
> - We shall not attempt to resemble the Muslims in any way with regard to their dress, as, for example, with the *qalansuwa* [a conical cap], the turban, footwear, or parting of the hair.

[1] Text from Mark R. Cohen, "Islamic Policy toward Jews from the Prophet Muhammad to the Pact of 'Umar'", in Abdelwahab Meddeb and Benjamin Stora, eds., *A History of Jewish-Muslim Relations: From the Origins to the Present Day*, Princeton, 2013, 72-73.

- We shall not speak as they do, nor shall we adopt their kunyas [honorific bynames].

- We shall not ride on saddles.

- We shall not wear swords or bear weapons of any kind, or even carry them on our persons.

- We shall not engrave Arabic inscriptions on our seals.

- We shall not sell alcoholic beverages.

- We shall dress in our traditional fashion wherever we may be, and we shall bind the *zunnār* [distinctive belt] around our waists.

- We shall not display our crosses or our books anywhere in the roads or markets of the Muslims.

- We shall only beat the clappers in our churches very quietly.

- We shall not raise our voices in our church services, nor in the pres- ence of Muslims.

- We shall not go outside on Palm Sunday or Easter, nor shall we raise our voices in our funeral processions.

- We shall not display lights in any of the roads of the Muslims or in the market-places.

- We shall not come near them with our funeral processions [or: we shall not bury our dead near the Muslims].

- We shall not take slaves who have been allotted to the Muslims.

- We shall not build our homes higher than theirs.

[Amendment Clause]

When I brought the letter to 'Umar, may God be pleased with him, he added: "We shall not strike any Muslim."

We accept these conditions for ourselves and for the members of our religious community, and in return we are to be given protection (*amān*). If we in any way violate these conditions which we have accepted and for which we stand surety, we forfeit our covenant of protection (*dhimma*) and shall become liable to the penalties for rebelliousness and sedition.

'Umar, may God be pleased with him, wrote to him (to 'Abd al-Rahman b. Ghanm): "Confirm what they asked, but add two clauses, which I make conditional upon them in addition to those which they have made conditional upon themselves. They are: 'They shall not buy anyone made prisoner by the Muslims,' and 'Whoever strikes a Muslim with deliberate intent shall forfeit the protection of this pact.'

Key Aspects (Comparative)

Together with the Quran and the Constitution of Medina, the Pact of Umar outlines the basic principles of dealing with religious difference. In this respect it is crucial to refer to the famous verse in the Quran that "There is no compulsion in religion" (*lā ikrāha fī dīni*) (Sura 2:256), though this verse actually also refers only to People of the Book. According to a scholarly interpretation it should be understood as a "statement of resignation, acknowledging that people are not likely to give up the faith into which they were born at the time" (Rudi Paret, quoted in Cohen, p. 60), rather than as a norm to be followed, although that is what it came to mean. Also, other verses in the Quran confirm the existence of a religious pluralism as part of early Islamic practice. However, the political and religious expansion of Islam and the formation of huge Muslim empires implied a more systematic regulation of religious diversity. In the process the regulations for *dhimmis* were often extended to other religions and spiritual traditions, especially when these were numerous or economically or politically important or powerful (e.g. Zoroastrians in Persia, Hindus and Jains in the Delhi Sultanate or the Moghul Empire), sometimes as part of peace agreements.

In reality, pragmatism, flexibility and "pragmatic eclecticism" (Ahmed Fekry Ibrahim) prevailed, as Islamic law accepts that scholars disagree and that human understanding, also about what is God's will, is necessarily imperfect. A famous (yet disputed) *hadith* (tradition) even states that "difference [of opinion] in my community is a blessing" (*ikhtilāf ummatī raḥmatun li-l-nās*) (Woltering 2019, 226). Hence premodern Muslim societies – in contrast to later (modern) fundamentalist movements and the ISIS – followed the principle of *irjā*, leaving it to God to decide whether someone is Muslim or not. It is on that basis that Muslim rulers accepted different Islamic schools and currents; there was even space for real 'freethinkers' – who did not belong to any of the main religious traditions – "a typical Islamic phenomenon", according to historian Sarah Stroumsa (2016, 19). Nevertheless, the degree to which this principle was accepted varied a lot: to the extent that rulers aimed at unifying the population, as did Seljuks, early Safavids or Almohads, for example, room for such diversity remained limited or non-existent, and dissidents of all sorts could effectively be persecuted. Also, the application of the different rules or stipulations differed widely: religious groups could even be exempted from paying the *Jizya* – the Moghul emperor Akbar even abolished it.

Typically, different religious groups (also within one religion) were subject to different rules and regulations. So, in premodern (or precolonial) Muslim societies religious and ethnic communities often functioned in largely separate, quasi-autonomous and self-regulating in complex social structures with different rights and duties for each. Religion incidentally was only one dimension of identification: in reality communities were defined following various criteria. These communities also competed among each other, and mutual relations, also within religions and denominations, were not always smooth. The boundaries between the different groups or communities incidentally were usually quite fluid. It for instance meant that people were subject to different legal systems, which in case of judicial conflicts, particularly for private matters, sometimes offered the possibility to choose one legal system, as was the case in Moghul India. In certain times and places non-Muslims were able to achieve high positions, particularly in the arts and sciences. That was mostly the case in al-Andalus (though declining in the face of Catholic conquests, esp. after the fall of the Caliphate of Córdoba in the early eleventh century) and in the Ottoman Empire, for example.

Sometimes they could act as high civil servants and military leaders, as in most South-Asian Muslim empires where Hindus and Jains were able to thrive (though their concrete situation depended much on time and place).

Finally, it should be noted that the debates about *dhimmis* and their legal status ensured that the Pact of Umar was given a long life, and allow modern readers to compare the 'original' version with the rules and regulations of later periods.

Contemporary Relevance

The contemporary relevance of the Pact of Umar also connects to this debate about the Dhimmis. The Pact of Umar is still a part of the Islamic legal tradition, albeit one that is now interpreted and executed rather differently. Still, the dhimmis, and thus the Pact, have taken a central place in discussions about Islamic practices of tolerance, much like the Constitution of Medina. Often depending on the political orientation of the analyst speaking, the Pact is either seen as the starting point of an original and functional version of tolerance, one that was largely beneficial to the Christians and Jews or the starting point of the oppression of Jews and Christians in the Muslim world, as they were subjected to several limitations. This makes the Pact into a document that is very relevant today, but its interpretation is often determined by pre-existing sentiments. Still, this contemporary debate also ensures that it can be used to discuss relations between Muslims and Non- Muslims today.

Annotated Bibliography

The history of Muslim attitudes towards non-Muslims has attracted much scholarly attention, but there remain many issues. As regard the legal status of *dhimmis* Antoine Fattal, *Le Statut Légal des Non-Musulmans en Pays d'Islam*, Beirut, 1958 remains important notwithstanding more recent studies such as Anver M. Emon, *Religious Pluralism and Islamic Law: Dhimmis and Others in the Empire of Law*, Oxford, 2012, who extends the concept of dhimmi to all non-Muslims. Excellent historical studies include Milka Levy-Rubin, *Non-Muslims in the Early Islamic Empire. From Surrender to Coexistence*, Cambridge, 2011; Mahmoud Ayoub, "Dhimmah in Qur'an and Hadith," *Arab Studies Quarterly* 5 (Spring 1993), p. 172–82; W. Kallfelz, *Nichtmuslimische Untertanen im Islam: Grundlage, Ideologie und Praxis der Politik frühislamischer Herrscher gegenüber ihren nichtmuslimischen Untertanen mit besonderem Blick auf die Dynastie der Abbasiden (749-1248)*, Wiesbaden, 1995; Uri Rubin, and David J. Wasserstein, eds, *Dhimmis and Others: Jews and Christians and the World of Classical Islam*, Winona Lake, 1997. With regard to the Pact of Umar see in particular Mark R. Cohen, who updated his earlier work in a recent article which also includes the text of the Pact (or one version of it): Mark R. Cohen, "Islamic Policy toward Jews from the Prophet Muhammad to the Pact of 'Umar'", in Abdelwahab Meddeb and Benjamin Stora, eds., *A History of Jewish-Muslim Relations: From the Origins to the Present Day*, Princeton, 2013, 58-73; Phillip I. Ackerman-Lieberman, "The Muḥammadan Stipulations: Dhimmī Versions of the Pact of ʿUmar'", in Arnold E. Franklin, Roxani Eleni Margariti, Marina Rustow, and Uriel Simonsohn (eds), *Jews, Christians and Muslims in Medieval and Early Modern Times: A Festschrift in Honor of Mark R. Cohen*, Leiden, 2014, p. 195–206; A. Noth, "Abgrenzungsprobleme zwischen Muslimen and Nicht-Muslimen: Die 'Bedingungen ʿUmars (*aš-šurūṭ al-ʿumariyya*)' unter einem

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Clippings

- The Pact of Umar: non-Muslims in Islamic societies
- You wear what you believe
- Hats or turbans?
- Tolerant building rules
- Building in Jerusalem
- Three religions in one bath
- Too much liberty in Izmir
- Regulating another religion
- Discriminating tolerance?
- Dhimmitude today?

Toleration towards Jews (and other minorities) in the Ottoman Empire

Basic Facts

- Involved parties: Sultan Bayezid II
- Date: First decade of the 16th century
- Place: Ottoman Empire
- Applies to: Sephardic Jews
- Main outcomes: Tolerance for Sephardic Jews

Context

The Ottoman Empire was founded in the thirteenth century, and conquered the Middle East, North Africa, the Balkans, parts of Hungary, Rumania, and Ukraine; in 1529 and 1532 it almost captured the capital of the Habsburg Empire, Vienna – the Habsburgs and Ottomans would remain mortal enemies ever since. The Ottomans thus ruled over a vast, multifaith empire, but notwithstanding exceptions and proselytizing Sufis did not focus on conversion of the varied people. The main religious groups in the 'European' lands conquered by the Ottomans were Orthodox Christians, Jews, and Armenian Christians. To be sure, some of these converted to Islam, sometimes even in large numbers – such as the Bosnians in the fifteenth century – or under immense pressure, such as the Jews of Istanbul under sultan Mehmed IV in the fifteenth century. The numbers of Muslims also increased though migration. Nevertheless, Muslims in the Balkans remained a minority until the demise of the empire.

According to the Qur'an and the Islamic Law, the Christian and the Jewish population of the Ottoman Empire were endorsed as "people of the book". As such they were entitled to the right to practice their religion as well as to own property, to regulate their family and inheritance issues following their own religious and legal traditions and rules, and to organize themselves (which they also had to do for taxation purposes). To be granted these rights as *dhimmi* (or *zimmi*), however, they had at any time to respect the dominance of Muslims (hence they could not own Muslim slaves, for example) and were subject of various obligations and discriminations, which not only clearly set them apart from Muslims but also explicitly aimed at humiliating them. So they had to pay religious taxes, such as the *jizya* or *kharāj*. Orthodox Christians moreover (not Armenians nor Jews, however), were compelled to the *devshirme*, a levy of young boys who were to serve the sultan and raised as Muslims (notwithstanding the Quranic interdiction on forced conversion). However, in practice these discriminatory measures were not always imposed and non-Muslims in some times in fact interacted with Muslims and among each other more or less as equals. Even the *devshirme* was not resented by all equally negative, as the boys could pursue a powerful career in the Ottoman administration and help their Christian relatives: famous is for example the case of two sixteenth century brothers separated by the *devshirme*, one – raised as a Muslim – becoming Grand Vizier (Sokollu Mehmed Pasha), and the other (Makarije Sokolović) first head of the Serbian Patriarchate of Peć, which his brother helped restoring (Barker, 2008, 124). Historical sociologist Karen Barker also signals that Bosnians, who had converted en

masse to Islam in the fifteenth century, even requested to remain subject to the *devshirme* after their conversion!

Religious communities were largely left to organize themselves, although some sultans tried to introduce more centralized administrative structures. Sultan Mehmed II 'the Conqueror' for example in the fifteenth century abolished the autocephalous Serbian and Bulgarian churches, putting them under the authority of the patriarch of Constantinople (Istanbul), which he appointed, and nominated a Chief Rabbi for all Jews in the empire. Nevertheless, the Greek Orthodox Church largely retained its structure, hierarchy and clergy, while the function of the Chief Rabbi was quickly abandoned, leaving the organization of Jewish life to the different Jewish local communities. Other religious communities, such as Christian Armenians, were treated more or less similarly. As the example of the *devshirme* illustrates, similarly does not imply equally, as was the case in other Muslim empires as well. Mutual relations between religious communities could be tense, especially between Jews and Orthodox Christians.

Incidentally there were different Jewish communities. The first group consisted of small Romaniot and Karaite communities in Anatolia and the Balkans, as well as Jews who were 'relocated' to repopulate and bring their expertise to Istanbul after the conquest. They were followed by immigrants and refugees from northern Europe and Russia. The third and major Jewish immigration into the Ottoman lands, however, were the Sephardim Jews who fled or were expulsed from their ancestral lands in the Iberian Peninsula after the Catholic Reconquista and especially the Fall of Granada in 1492 (Alhambra Decree, also known as the Edict of Expulsion, 31 March 1492).

The Ottoman policy towards the Sephardic Jews illustrates the general principles explained above. After the expulsion, sultan Bayezid II, who ruled from 1481 to 1512, sent the Ottoman Navy, commanded by the famous admiral Kemal Reis, to the Spanish lands and facilitated the resettlement. In addition, he issued a *firman*, or a royal decree, to all the governors of the European provinces ordering a friendly reception of the Jewish refugees. However, he did not allow the Jews to open new synagogues across the Empire. His successor Selim I nevertheless did so, even though permission to establish a non-Islamic religious building was relatively hard to be provided by the Ottoman authorities. The religious minorities in the Ottoman Empire often had to prove that a previous religious building was damaged or demolished in order to get authorization to open a new one.

Key Aspects (Comparative)

The way Jews, and in particular the Sephardic Jews after their expulsion from the Iberian Peninsula, were treated in the Ottoman Empire illustrates both the basic modalities of dealing with religious difference in the Islamic world, as discussed with regard to the Constitution of Medina and the Stipulations of Umar, and the wide variety of arrangements in practice, where Islamic principles were mixed with different traditions, such as the *devshirme*, which originates in Central Asia. As Karen Barkley observes, toleration in the Ottoman Empire "had little to do with ideals or with a culture of toleration" and did not mean the welcoming acceptance of difference, but basically the "absence of persecution" and their organization in function of the needs of the empire (Barkley 2008, 110). But at times difference itself was

positively valued, as comes to the fore in the following quotation of the Ottoman sultan Suleiman the Magnificent, who reigned from 1520 until his death in 1566:

> Just as that decorative variety of herbs and flowers does no harm, but marvellously refreshes the eyes and the senses, so too the diversity of faiths and religions in my empire is an advantage to me, not a liability, so long as they live in peace and obey my commands in other political matters. Therefore it is better to let them continue to follow their religions in their own way, as my ancestors permitted them to do, rather than provoke uprisings and see my state ruined. That would be just as if were to pull up all my flowers except those of one single colour; and then what would I be doing except depriving my garden or meadow of its own natural grace and beauty, instead of improving it?[2]

However, if conditions and imperial demands, as understood by the leading powers and the sultan in particular, or if the views of the sultans and *ulema* (Muslim scholars) changed, the concrete policies changed as well, as happened in the seventeenth century. Real persecution and massive forced conversions remained exceptional though. But even if toleration depended on imperial needs, the position of religious minorities, of Jews in particular, in the Ottoman Empire was far better than either in contemporary Christian Europe or the Byzantine Empire before the Ottomans, though not necessarily better than in non-Muslim states in Africa and Asia, or the pagan Roman Empire (before Christianization).

The Jews that remained in Catholic Spain had to convert to Catholicism. Those of them who kept practicing Judaism in secret were called *Marranos* or *Anusims*. They faced harsh persecution by the Inquisition. Some found refuge in some major European ports such as Livorno, Bordeaux, Amsterdam, and London, as well as in Eastern European farmlands (including Lithuania), but particularly in Muslim territories in North Africa and the Ottoman Empire, were they found protection and opportunities for living and trade.

Contemporary Relevance

The Ottoman politics of tolerance towards Jews resonate strongly with today's debates and realities. Firstly, the memory of the Ottoman Empire remains disputed, especially in the lands that once have been part of the empire in Southeastern Europe or felt threatened by it (in particular the Austrian Habsburg Empire) but broader in the whole of Europe. The Sublime Porte, as the Ottoman Empire is also called, still is sometimes viewed as the quintessential 'other' of Europe. The history of the Jews helps putting that image into perspective, without resorting to a simple reversal of this representation. It first of all illustrates the intense entanglements and interactions between European empires, and situates the empire as part of European history. But it also points at an important difference between the Ottomans (and broader Muslim societies) and the Christian European states and societies at that time, albeit that it is not one that is usually highlightened when the difference is emphasized: it shows the Ottomans far more 'tolerant' than the rest of Europe.

[2] Quoted in Noel Malcolm, Useful Enemies: Islam and The Ottoman Empire in Western Political Thought 1470-1750, Oxford: OUP, 2019, 284.

Secondly it nicely illustrates the existence of a history of toleration and pluralism in the Ottoman Empire, with its vicissitudes.

Thirdly, in a time when relations between Muslims and Jews are strained because of the policies of Israel in the Arab world, it recalls a time when Jews and Muslims lived together in peace.

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Tolerance towards religious minorities

Jewish settlements in the Ottoman Empire

Everyday shoes in Ottoman times

Historical interpretation of human rights and fundamental freedoms in the Ottoman Empire

Religious Peace of Augsburg

Basic Facts

Involved parties: The Protestant and Catholic Estates of the Holy Roman Empire gathered at the Diet of Augsburg; King Ferdinand I. on behalf of Emperor Charles V.

Date: 1555

Place: Augsburg

Applies to: The Holy Roman Empire

Main outcomes: the restoration of peace in the Empire, a political solution to the religious conflict following the Reformation, a transfer of responsibility for the questions of religion from the level of the Empire to the Estates. The territorial rulers obtained the right to decide about the confession of the territories (“cuius regio eius religio”). People adhering a different religion were allowed to emigrate (“beneficium emigrandi”), but sometimes also forced to do so.

Context

The Religious Peace of Augsburg 1555 brought a pacification to the political and military conflicts within the Holy Roman Empire of Germany that emerged in the wake of the Reformation. It set up regulations that secured peace in Central Europe for more than 60 years by taking first steps of separating the theological and the political sphere.

Two generations before the Peace of Augsburg, religious-political thinking in the Holy Roman Empire was still characterized by the idea of unity of politics and religion. The Empire saw itself as a *Christian Empire*, and the Emperor regarded himself as the guardian of this unity. The widespread call for a reform of the church around the turn of the 16th century brought no fundamental crisis of this concept of unity.

A radically new element came into play with the Reformation movements: Rome reacted to Martin Luther's questioning of the papacy with excommunication, and the Empire with the Edict of Worms in 1521, the application of the secular ban following the church law. However, the support of some powerful estates for Luther, above all Kursachsen, prevented its enforcement. The Emperor, who was dependent on the support of the estates for his wars against France and the Ottomans, had to make concessions. Nevertheless, he refused the demands for a National Council with reference to a General Council of the church to be held. At the Imperial Diet in Speyer in 1526, the Reformation-oriented estates established the compromise formula that every Imperial estate in its countries would handle the Edict of Worms in such a way one could justify it before God and the Emperor. Only three years later, at the next Reichstag in Speyer, this regulation was to be repealed. Some important territories and cities filed a formal "protestation" against the tightening of anti-reformatory measures decided by the majority of the Reichstag. They appealed to the principle that in questions of conscience there should be no overruling of a minority. Because of this protest, the adherents of the Reformation were soon called Protestants.

At the following Reichstag in Augsburg in 1530, the Protestants presented their theological confessions to the Emperor with the *Confessio Augustana* and the *Tetrapolitana*, on which the Roman Catholics answered with a rejection in the *Confutatio*. The Diet renewed the Edict of Worms by majority vote. At the same time, in many Protestant territories the implementation of reformatory changes in the church system began in the responsibility of each ruler, by way of church ordinances, liturgy reforms and the dissolution of monasteries.

In the following two decades, all attempts to come to an agreement on the controversial doctrinal questions through religious discussions among theologians failed. Parallel to this failure, the political confrontation escalated up to war. The Smalkaldic War of 1546/47 was justified as an execution of Imperial law, but the religious motivation was obvious to all those involved. The war ended with the victory of the Emperor and the imprisonment of the leading Protestant opponents. The failure of the subsequent *Interim*, a church order for the Protestant territories imposed by the Emperor at the Diet of Augsburg 1548, resulted from its inherent problems, but above all from the change in the political- military situation: In the so-called Princes' Uprising (Fürstenverschwörung), Protestant imperial princes allied with the French king against the Emperor. After the victory of the Protestant troops, his brother Ferdinand had to agree to the Passau Treaty in 1552. Emperor Charles subsequently withdrew from Imperial politics and entrusted Ferdinand with the conduct of negotiations at the Diet in Augsburg 1555.

Therefore, the religious peace came about without the participation of the Emperor – and without the help of the Roman Curia. Although the Popes sent nuncios to the Diet, they did not play a role in finding a compromise and subsequently remained fundamentally and permanently in opposition to the religious peace. Ferdinand negotiated the agreement with the representatives of the Imperial estates, for hardly any of the Electors and other Imperial estates took part in person in the Diet; Augsburg was therefore also described as the first diplomatic congress. Jurists dominated the events.

Key Aspects (Comparative)

The Augsburg Religious Peace consists in an extension of the General Peace (Landfrieden) of 1495 to the controversial religious question, and thus formulates a political-judicial peace guarantee: there should be no use of force because of the "split religion" among the estates. A "religious tolerance in the sense of a strategically pragmatically motivated concept of coexistence" (Rainer Forst) was practiced between the individual estates.

The decisive articles 15 and 16 determine the *ius reformandi* only for the estates adhering to the Augsburg Confession or the Roman church. Only they had the right to choose their confession freely and to determine it for their territory, which became proverbial in the later formulation of the Protestant Greifswald jurist Joachim Stephani "whose the rule, his the religion (Cuius regio, eius religio)". Thus, the shift of the responsibility for religion to the territorial level was carried out and legally secured, which had been initiated since the Speyer Reichstag of 1526. It lay now below the level of the Empire at the level of the individual estates – where the idea of the unity of politics and religion was preserved.

The Augsburg Religious Peace thus produced a somewhat paradoxical result: the abolition of unity to preserve it. For the formulations affirmed the provisional nature of the Augsburg

decisions until agreement could be reached again. The concept of unity of the *respublica Christiana* was maintained, but at the level of the Empire, it was suspended.

This inner tension of the treaty, the asserted provisional nature until an agreement was reached, but also its diverging legal interpretations quickly made the fundamental content of the Augsburg Religious Peace the subject of long-lasting disputes before the Imperial Courts.

By restricting the peace settlement and the *ius reformandi* solely to the adherents of the Augsburg confession and the followers of the Old Church, the Peace of Augsburg set the demarcations of two confessions. This happened at a time when the theological and ecclesiastical boundaries between the confessions were not yet fixed: The Council of Trent was still in full swing, the differentiation of the old faith from the theology of the Reformation far from complete, not to mention the implementation of the Trent reform decrees in the Catholic dioceses. On the other hand, the theological clarification processes within the Wittenberg Reformation after Luther's death had only just begun with the dispute over the Interim and the subsequent controversies. Further debates about Luther's legacy were to follow for another generation before a relative consolidation was achieved in the Formula of Concord 1577. The theological boundaries of the two religions, which are named as contracting parties in religious peace, were thus sharply drawn only in the following decades; in this respect, the peace preceded its time.

It also carried a seed of failure within it: through the deliberate and declared exclusion of the Reformed line of the Reformation, countless disputes between the Reformed and supporters of the Wittenberg Reformation followed. The debate about the Reformed belonging to the adherents of the Augsburg Confession, which was primarily concerned with the doctrine of the Lord's Supper, was charged with considerable political relevance by the legal dimension of this question. This contributed to the intensification of the conflicts.

A decisive factor for the *ius reformandi* in Art. 15 and 16 was that it did not entitle individual decision about religion, but only a right of the Imperial estates. The followers of the Anabaptists, the Schwenckfelder, later the Antitrinitarians and other groups besides the large denominations were excluded from the Peace and remained under the threat of Heretical Law. As subjects, they could at best hope for tolerance from their rulers in the form of permission, i.e. toleration of difference if it remained in silence.

The sole exception to this statement was the *beneficium emigrandi* formulated in Article 24 of the Peace of Religion, i.e. the possibility of regulated and legal individual emigration for religious reasons. The assessment of this benefit varies. According to Martin Heckel, this is the first formulation of an individual fundamental right. It is unclear how far these regulations have come into effect at all, especially since some sovereigns anticipated the claim by expulsion. However, the article set a legal limit to the enforcement of the predominant religion, in that it brought with it the danger of the population migrating, which was undesirable for most of the sovereigns.

Given the complicated structure of the Holy Roman Empire, the Peace of Augsburg was not an edict of a ruler like in the cases of the French edicts (St Germain, Nantes; see there), but a mutual agreement of Estates of different faith and the Emperor. It put an end to a religious war and set up a constitutional document that guaranteed the societal order for some

decades. Following up to Swiss agreements two decades earlier, it found a successful way to deal with a newly established religious division that ends up in two equally strong parties.

Contemporary Relevance

The Religious Peace of Augsburg is widely recognized as a landmark in the history of religious peace settlements. It ended a religious war by unburdening the highest political level of society from the necessity of religious uniformity, thus making possible a peace, which lasted for 60 years. The Peace became a *lieux de memoire* for the co-existence of different confessions, especially in the town of Augsburg itself.

The Peace led way to a first degree of religious toleration: A toleration of the existence of a different confession within the same state. Since it is not necessarily a principle of peace-making to put the responsibility for religion to the rulers of territories, the regulations of the Peace opened up an era of confessionalization, during which unsolved conflicts finally led to Thirty Years' War. But the general principles of the Peace of Augsburg were restored in the Westphalian Peace, which shows, that they turned out to be basically successful.

While religious toleration was granted only to the rulers who could henceforth decide about the religion of their territories and thus of their subjects, the right to emigrate opened up the door to individual religious rights – a right which belongs to the catalogue of individual freedom rights today.

One can learn from the Peace of Augsburg, that religious conflict, when intertwined with the political system, can lead to wars, and that separating the political sphere from the religious one can be a way to peace. The Peace did not bring immediate steps to secularization, but opened a door on the way to it. It was a milestone on the long way from the unity to the separation of the political and the religious sphere.

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Augsburg 1555 – Map: Officially accepted religions in European territories 1555

Augsburg 1555 – Graeme Murdoch, 'Mapping Reformation Europe'

Augsburg 1555 – Articles 9-10, 14

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Augsburg 1555 – Articles 24-27

Augsburg 1555 – Picture of the document

Augsburg 1555 – Montaigne on confessional parity

Augsburg 1555 – Picture Friedensbild 1655

Edict of Saint-Germain

Basic Facts

- Involved parties: King Charles IX, Queen regent Catherine de' Medici, the Parlement of Paris
- Date: 1562
- Place: the Kingdom of France
- Applies to: French Protestants, French judges, magistrates and royal officers
- Main outcomes:
    - Limited rights for Protestants to worship outside cities
    - Confusion and disagreement about the validity of the Edict led to the first Religious War

Context

At the beginning of the sixteenth century, the kingdom of France was one of the largest and most powerful states in Europe. It was ruled by the Valois dynasty, which aspired to control also large parts of Italy and the Low Countries. This caused a series of wars with the Habsburg dynasty, which were finally pacified in 1559. After having expelled Jews from the kingdom throughout the Middle Ages, France had no substantial religious minorities and was a Catholic country. The University of Paris was an important centre of Catholic theology. The French Monarchy also had gained a high degree of autonomy from the papacy in the governance of the French Catholic church. The ideas of humanism also gained attraction in France. King Francis I, who ruled from 1515 to 1547, had a strong interest in new scholarly approaches. Influenced by the humanist Guillaume Budé, he founded the Collège Royal (now the Collège de France), an institution that promoted scholarship on Greek and Hebrew texts.

Soon after Martin Luther openly proclaimed his critical ideas about the Catholic Church (1517) in the Holy Roman Empire, they were picked up and discussed in France. Both the Catholic Church and the French king considered these ideas as heresy and prosecuted followers of Luther. In 1521, the University of Paris condemned Luther's teachings. The highest court in the Kingdom, the Parlement of Paris, started to monitor the publication of religious books strongly. In spite of this, the ideas of Luther and his sympathisers continued to circulate in France and gained appeal. Incidents of image breaking throughout the 1520's and 1530 demonstrated the adversity against Catholicism. Francis I continued to disapprove the new teachings as heresy, but had a moderate stance and occasionally intervened on behalf of convicted heretics. His stance changed in 1534, when Protestants had put up broadsheets proclaiming their ideas in various French cities. This defiance of public authority was the starting point of a much stauncher prosecution of heterodoxy. After the death of Francis I in 1547, his son Henry II continued this repressive policy.

Meanwhile, French scholars such as Nicolas Cop and John Calvin began to develop their own reformed religious teachings. The city of Geneva in the Swiss Confederation became a centre for such thinkers from France and elsewhere. The teachings of Calvin became popular

among members of the French nobility, in particular the Bourbon family. The appeal of reformed teachings led to a breach within the French nobility, which intensified after the unexpected death of Henry II in 1559. As Henry's sons were all still young –his eldest was 15 at the time- noble families at the court sought to gain influence. Notably the Guises family, who considered themselves as the main defenders of Catholicism and influenced the young king Francis II. When Francis II died in 1560, he was succeeded by his 10 year old brother Charles IX. The Queen mother Catherine de' Medici acted as a governess during the first years of her son's rule.

In spite of the policy of repression, Protestantism continued to gain attraction throughout the 1550's. Outbursts of religious violence increased, both from the side of Protestants as well as Catholics. Although social motives such as bread prices may also have contributed to the unrest, such riots were driven by religious ideas and convictions. A strong guiding force was the idea that the ideas and actions of religious opponents were polluting society and that violence had a purifying effect. Many of the violent actions of Catholics and Protestants were aimed at removing religious objects but also people which they considered as polluting the community and the relation between people and God. For example, convinced Protestants turned violently against religious images and relics of saints that were venerated by Catholics. For radical Catholics, the burying of Protestants on consecrated funeral grounds was unacceptable, and they turned against such funerals. Moreover, in particular Catholics held deep fears about the coming end of times. Guided by this belief, they felt they needed to purify the Kingdom.

During Catherine de' Medici's first years as governess, she and chancellor Michel de l' Hospital sought to pacify the religious conflicts. Shortly before the death of Francis II, the Edict of Romorantin (May 1560) had already granted freedom of conscience to Protestants. In September 1561 they convened the Colloquium of Poissy, in which they brought together Catholic clergy and Protestant theologians to solve their differences through discussions. The goal of the Colloquium, a general reconciliation between the two stances, was not met.

After this failed attempt to actively involve representatives of different religious groups in solving the conflict, the royal court decided to provide a solution imposed by the King and the governess. This solution took the form of a royal edict, named the Edict of Saint-Germain, also known as the January Edict. This piece of legislation provided a limited right to worship in public to Protestants in France (see Key Aspects below).

The Edict was opposed by the Parlement of Paris, which consisted primarily of conservative Catholic judges. This opposition created confusion and insecurity about the legal validity of the Edict. Protestants believed they could make use of their right to worship in public. However, radical Catholics were convinced that public Protestant worship remained forbidden. The most notorious incident based on this disagreement took place in Vassy. There, a group of Protestants was worshipping in a barn, when the Duke of Guise and his entourage passed by. The Duke considered the Protestant gathering illegal and confronted them. This confrontation led to physical violence, to which the Duke responded by burning down the barn with the Protestant group in it.

After the news of this massacre began to circulate, Protestants felt targeted and began to take over control in some major cities such as Toulouse and Rouen. Tensions grew and led to a war,

which became known as the first religious war. For the coming 36 years, France would shift between wars and temporary pacification. These wars had the local characteristics of civil wars, but due to the involvement of neighbouring countries were also part of international conflicts. The royal edicts aimed at pacifying the conflict shifted between granting rights to Protestants and repressing them.

Key Aspects (Comparative)

The Edict of Saint-Germain is part of a wide range of settlements that aimed at arranging religious coexistence in the sixteenth and seventeenth century. Initially, the rise of the Reformation was followed by efforts of worldly rulers to solve the conflict through disputes by theologians and by a general council. When it became clear that these meetings would not solve the conflicts, worldly rulers such as the Holy Roman Emperor and the French King began to seek more proactively for a solution. Various “religious peace” settlements were established, such as the Peace of Augsburg (1555) in the Holy Roman Empire, and a sequence of arrangements in France, beginning with the January Edict of Saint-Germain (1562). In the Low Countries, various middle groups sought to establish religious coexistence through a settlement named the Religionsvrede (1578)

All these settlements have in common that they provided a politically arranged solution to conflicts that had a religious component. Besides these common traits, many of these religious peace treaties have distinct features, such as the religious denominations involved, the territory to which the arrangement applied, as well as the role of local rulers and governments.

The Edict of Saint-Germain was the first piece of legislation that granted Protestants in France the right to worship in public. This right applied everywhere in France, without regional variations or adaptations. However, such public worship was only allowed outside of cities. Preaching within cities remained strongly forbidden. The Edict thus did not arrange equal rights for religious confessions in France, but specifically listed the rights and prohibitions applied to one group. It was thus very much a concrete political response to a tense situation that the French king and the governess sought to pacify. The Edict also implicitly treated one religious denomination, Catholicism, as the norm, and treated Protestantism as the only temporally accepted exception.

The Edict is a prime case of the intervention of a worldly ruler –i.e. the French King – in the resolution of a conflict that was primarily religious. As the colloquium of Poissy had failed to come with a theological solution and the council of Trent was in a recess, the French King and the governess used the legal instruments they had available to impose a solution. The Edict was described in its preamble as a temporary measure. The resolution of the religious division was still considered as the final solution and the council of Trent was expected to provide this solution.

The Edict safeguarded Protestants’ right to worship outside cities by explicitly stating that judges and magistrates should not harass or hinder them in it. It also stated that those who would attack such gatherings would be severely punished. Apart from these guarantees, the Edict also listed numerous obligations and restrictions to which Protestants had to comply. They had to return Catholic churches and buildings as well as religious objects and had to

respect the rights and incomes of Catholic clergy. Moreover, they were forbidden to destroy religious objects, to carry weapons, in particular at their gatherings. Protestant leaders had to monitor their community and were not allowed to welcome prosecuted people or refugees. Protestant communities were only allowed to draft regulations for their community that gained the approval of royal officers. These officers had to be allowed entrance and attendance to their gatherings. Protestants were forbidden to arrange fortifications and to collect forced contributions.

As the Edict had failed facilitating coexistence in France and also the council of Trent did not provide a solution, in the period up to 1589, a sequence of new edicts was issued. These new edicts were longer and more detailed, thus creating precisely defined conditions for coexistence. Especially throughout the 1570's, the details of the Edicts were monitored by royal commissioners.

Contemporary Relevance

The Edict of Saint-Germain and its afterlife demonstrates the strategies and effects of Early Modern government intervention in religious conflicts. The Edict provided rights to an important religious minority in order to appease that group. However, it continued to treat this group as a deviant one and considered one confession as a privileged one. This settlement may be relevant to compare to contemporary polities that have an official state church and/or that issue official state recognition to a limited group of confessions and religious movements. The case of the Edict of Saint-Germain thus challenges to reflect upon the impact of state intervention in hierarchies and power relations between religions and confessions.

The Edict of Saint-Germain and the prehistory of it also calls for reflections upon the motives for political interventions in the religious landscape. Whereas Protestantism was initially considered as a challenge to Royal authority that needed to be supressed, the position of the Monarchy shifted towards limitedly tolerating it in order to maintain its authority and to supress violence. Rather than treating shifts in the religious order according to an abstract principle, the French monarchy responded by adapting its stance to the rising success of a new confession.

The Edict also shows how regulations issued by a government were considered necessary due to the failure of intra- and interreligious dialogue. Neither the Catholic Church, nor the developing Protestant denominations were able to find a compromise that allowed them to coexist. The Edict thus was a response to that failure. This allows for reflections on contemporary situations where governments respond to religious conflicts by adopting a more interventionist and regulatory position.

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St-Germain: The Massacre at Vassy

The Edict of Saint-Germain and travelling preachers

Controversial political leaders and religious peace: Catherina de Medici and the Edict of Saint-Germain

Religious violence and state authority: Saint Germain clause prohibiting violence

Confederation of Warsaw

Basic Facts

Involved parties: The Confederation of Warsaw was not a peace treaty in the traditional sense, but a mutual agreement of more than 200 Polish aristocrats who participated in the so-called Convocation Sejm and decided the modalities of the upcoming election of a new Polish king.

Date: January 28, 1573

Place: Warsaw, Poland

Applies to: The estates of the Polish-Lithuanian Commonwealth, this means all noblemen as well as the members of the senate regardless their religious affiliation.

Main outcomes: The signatories of the Confederation declared that notwithstanding the religious differences between each other they want to keep peace among them. No one should be threatened by force or aggression because of his or her religion. Within the multi-religious society of the Polish-Lithuanian Commonwealth, this declaration fostered a general religious tolerance among the nobles that lasted for some decades. The text of the Confederation of Warsaw became part of the documents called *Articuli Henriciani* or Henrician Articles, which every aspirant for the Polish throne had to sign before being crowned king. They functioned, essentially, as a first constitution for Poland until the Constitution of 1791. The Confederation of Warsaw was incorporated in the UNESCO Memory of the world register in 2003.

Context

The Polish-Lithuanian commonwealth was the biggest territorial unit in Early Modern Europe, stretching from the Baltic coast to the Carpathian Mountains and the Black Sea. It regarded itself a Rzeczpospolita, a Republic of Nobles, who were represented in the two chambers of the parliament, the Diet called *Sejm* and the Senate. Poland-Lithuania was an elective monarchy. During the first three quarters of the Sixteenth Century, the Polish kings belonged to the Jagiellonian dynasty, namely King Zygmunt I. (1506–1548) and his son Zygmunt II. August 1548–1572. In 1569, the two countries joined more closely in the Union of Lublin, which brought a common defensive system and a joint currency. When King Zygmunt II. August died in 1572, the Polish political institutions, representatives of the Diet and the Senate, had to find regulations for the *interregnum*, the time without a King, and to agree on a procedure for electing a new King. After preliminary meetings in the Polish and Lithuanian regional diets called Sejmiki, a gathering of more than 200 nobles came together in Warsaw in January 1573 for a meeting called Convocation Diet. The assembly had to address political tensions between the Polish and Lithuanian part of the country, diverging interest between the lesser and richer nobles as well as the Catholic bishops, and potential religious conflicts.

Already since the High Middle Ages, Poland-Lithuania had been a country with a high degree of religious diversity: other than many Western European countries, which adhered more or less uniformly to Western Christianity, in the Polish-Lithuanian territories lived not only Roman Catholics, but also Greek-Orthodox Christians, predominantly in Lithuania. Moreover, some

regions were home to Muslim tartars and Armenians. Above all, many Jews had found refuge in Poland-Lithuania after the expulsion of the Jewish population from countries like England and France and pogroms in many German territories and had been granted a legal status in the Statute of Kalisz 1264. After the beginning of the Reformation in the 1520s, Lutheran and Reformed ideas spread across the Polish and Lithuanian nobility and the burghers of the cities, in spite of Royal Edicts that prohibited the Reformation. Various religious refugees, among them Bohemian Brethren who had to leave Habsburg territories because of their Protestant beliefs, Mennonites and Antitrinitarians, settled in Poland after 1548. Thus, at the end of the Jagiellonian era, a wide variety of religious groups lived side-by-side (see map in Clipping b1). A violent outbreak of conflicts stemming from the religious diversity, as in the Western European countries like Germany, France, Scotland, or the Netherlands did not take place in Poland and Lithuania.

When they met in Warsaw, the representatives of the nobility were aware of the danger in which the Rzeczpospolita was: only four years after the Union of Lublin, the political system was not yet stable, and confessional conflict overshadowed the election of a new King. Among the potential candidates were Protestants like the Swedish King Johann and the son of the Duke of Prussia, the Orthodox ruler of Russia Ivan IV, as well as Catholics like Ernst of Habsburg and the French prince Henri de Valois, who was held responsible for the massacre of the St Bartholomew's night in France only a year before. Thus, the Confederation of Warsaw not only had to set the date of the general election of the new King in a meeting called Election Sejm, but also needed to secure the political rights of the nobles regardless their religious affiliation.

After a majority of the deputies agreed on the articles, the date for the election was set for May 1573. Despite his Catholic belief, Henri de Valois was elected by several thousand noblemen at the Election Sejm, among them many Protestants. As prerequisite for ascension to the throne, Henri had to swear an oath to accept a set of regulations and principles that secured the rights of the Polish-Lithuanian nobility, which was later called the *Articuli Henriciani*. Among them was the Confederation of Warsaw. Even though Henri did not explicitly accept the text of the Confederation, it became part of the electoral capitulation for the next royal elections only two years later. The next king, Stefan Bathory ratified the Confederation of Warsaw. From that point on, it obtained the status of a fully-fledged law and remained so until 1793. Despite its continuous legal validity, the content of the Warsaw Confederation was eroded in the subsequent development of Polish-Lithuanian history. In the course of the 17th and 18th centuries, the position of the non-Catholics in the country deteriorated significantly. The milestone of freedom of conscience was by no means uniformly followed by general religious tolerance.

Key Aspects (Comparative)

In comparison with other Early modern religious peace treaties, the Confederation of Warsaw was neither an edict issued by the ruler granting rights to the ruled (like the French edicts) nor a settlement of a religious conflict (like the Religionsvrede, see there), but a mutual agreement among nobles in order to prevent the outbreak of religiously motivated violence. It did not impose regulations for religious coexistence, but the mere declaration, that no one of the signatories would use violence or to support religious oppression. Formulated in a

moment of political insecurity with the election of a new head of state to be held, the agreement expresses not the will of a ruler or some influential key figures, but formulates the collective will of the Polish-Lithuanian nobility, represented through the more than 200 deputies of the Coronation Sejm, which had been elected on local meetings. With the hint to the cases of religiously motivated violence in other European countries in the text of the declaration, the signatories made clear that they felt the danger of a religious war in their own country. By agreeing on the Confederation, they tried to establish regulations, which obliged also the coming Kings to accepting the multi-religious situation in the Commonwealth. The text does not explicitly demand religious toleration or freedom of conscience, but "only" a political assurance of security to all religious groups among the nobles. It does not take any stance in favor of a majority religion like in the French edicts ("religion pretendu reformée", see the Edict of Fontainbleau and the Edict of Nantes), but simply states that the undersigned have a dissent in the question of religion ("nos … dissidentes in religione"). Whether the guarantee of religious security also applies to the burghers of the free cities remains unclear in the text.

The Confederation applies to an already multi-confessional landscape. In this respect, it can be compared with the situation in the Islamic cases like Umar and Medina (see there). It is not a regulation from a single ruler, however, but an agreement of a gathering of pairs representing – in their understanding – the whole country. In the following years, it becomes part of the constitutional documents of the Polish- Lithuanian Commonwealth, thus anticipating the integration of regulations of tolerance into constitutional text like the US constitution or the documents of the Vienna congress (see there).

The Confederation of Warsaw marks an important point though, a "milestone of religious freedom" (Gottfried Schramm) which had to be passed on the way to full establishment of tolerance. In this way, it was recognized throughout Europe, especially in France and the Netherlands, as an important step for all religious groups.

Contemporary Relevance

As the description of the context shows, the Confederation of Warsaw is a document deeply rooted in the history of Early Modern Poland-Lithuania. It reflects the specific situation of a state in a transitional situation without a king and directly expresses the political interests of the nobility. All claims to regard the Confederation as a "gem of the free conscience" (pol. *klejnot wolnego sumienia*) have to be contextualized, taking into account the circumstances and restrictions. Nonetheless, it has a lot of relevance for the history of toleration and can give a helpful example for today.

The Confederation of Warsaw shows the possibility of a mutual religious toleration even in a confessionally charged situation. It proves that it is possible to avoid the outbreak of religious motivated violence in a multi-religious society by way of political consent. The Confederation shows the power of mutual agreement instead of rights granted by a supreme authority. Without referring to high values like "tolerance" and without granting any positive rights of religious practice, the mere agreement on not- using violence as a means in political conflict proves as an effective way of pacification one can learn from today. Moreover, its history in

the aftermath teaches that all kinds of compromise are endangered in cases of radicalism and intolerance and that there is no simple trajectory towards societal progress.

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Warning: as of today (January 15, 2020), the Wikipedia Article in English on the Confederation of Warsaw is poorly translated and of no use.

Clippings

Warsaw 1573 Confederation of Warsaw – Map of the confessional situation in Poland-Lithuania in 1573

Warsaw 1573 Confederation of Warsaw – Picture of the document

Warsaw 1573 Confederation of Warsaw – Muslim Tartars in Polish history

Warsaw 1573 Confederation of Warsaw – Article V

Warsaw 1573 Confederation of Warsaw – St Bartholomew's massacre

Warsaw 1573 – Keckermann on individual freedom of conscience

Religionsvrede

Basic Facts

- Involved parties: The Estates-General of the Low Countries, the Council of State of the Low Countries, Archduke Matthias of Austria
- Date: 1578
- Place: the Low Countries. This is a historical regions that by 1578 encompassed the larger part of what is nowadays Belgium and the Netherlands
- Applies to: inhabitants of the Low Countries adhering Catholicism, as well as those adhering the Reformation (no specification or qualification of this term is provided in the peace treaty)
- Main outcomes: The treaty provided the following rights and arrangements. However, the Religionsvrede had to be ratified by local governments.
    - freedom of conscious for both Catholics and Protestants.
    - Public exercise of Reformed worship in the provinces of Holland and Zeeland. In other provinces Reformed worship was allowed in communities where at least 100 persons requested it
    - Public exercise of Catholicism in all provinces apart from Holland and Zeeland. In those provinces allowed under the condition that at least 100 persons requested it.
    - Equal access to educational institutions
    - Equal access to positions as public servants

Context

In the decades prior to the drafting of the Religionsvrede, the Low Countries had gone through a series of political, religious and military changes and conflicts. From the beginning of the sixteenth century, the region was ruled by Charles of Habsburg, commonly known as Charles V. Charles also ruled as the King of Spain, as Emperor of the Holy Roman Empire and he ruled also over large parts of the Italian peninsula. The Low Countries were thus part of the large Habsburg Empire. However, the seventeen provinces of the Low Countries had a relatively strong autonomy within this Empire. The local nobility and the cities retained a high level of self-rule and privileges, about which they occasionally clashed with their ruler. Moreover, the Low Countries were a densely urbanized region that served as a commercial hub in Northern Europe. At the beginning of the sixteenth century, the region was uniformly Catholic and did not harbour substantial religious minorities. In the cities, not only regular and secular clergy led a life devoted to religion. Also lay organisations such as the Beguines and the Brethren of the Common Life were active in the region.

Humanism gained a relatively strong foothold in the region, with Erasmus of Rotterdam as the most famous example. When the Reformation began to develop in the Holy Roman Empire, it also gained followers in the Low Countries, notably in the commercial centre

Antwerp. The city was home to a small group of Lutherans, but it was mostly Calvinism that gained adherents. Anabaptism, the most radical and line of Protestantism attracted poor craftsmen and women. All these new religious movements were forbidden by the existing and reinforced anti-heresy legislation. However, levels of prosecution and implicit tolerance within the region varied strongly according to time and place. In Antwerp, the policies of prosecution towards Lutherans and Calvinists were relatively moderate in order not to scare away foreign merchants. Anabaptists were prosecuted without mercy and almost always condemned to death.

From the 1560's onwards, the nobility of the Low Countries began to oppose the policies of prosecution by the government more and more. The absence of the ruler complicated this situation, as King Philippe II had left the region in 1559 to reside in Spain. He installed his half-sister Margarete of Parma as regent in the Low Countries. The policy towards heresy and the reform of the episcopate in the region caused frustration and opposition among the nobility. Many noblemen feared that these issues contributed to stronger centralisation and a loss of their privileges and influence. They expressed their concerns in a very open way to the governess, which created an atmosphere of uncertainty about whether a tolerant or repressive attitude against Protestantism would prevail. By 1566, Protestant preachers became more audacious. For long, they had held secret gatherings, but now they began to meet and preach in the open. In the summer of 1566, small groups of Protestants began to engage in Iconoclasm. These actions created a shock wave throughout the whole of the Low Countries.

As a reaction to these dramatic events, members of the nobility stepped to the forefront in pacifying the troubles. In Antwerp, public worship for Calvinists and Lutherans was allowed. This was a breach with the previous policy of official prosecution. King Philippe II in Spain reacted by sending a military expedition to the Low Countries under the leadership of the duke of Alba. Various groups of Protestants responded by acting openly as rebels. William of Orange was considered by many of these rebels as their leader. Alba started an intensive prosecution of all those that had participated in the Iconoclasm and who had openly celebrated Protestantism or expressed sympathies to the Protestants cause. Cities where Protestants had taken control were mercilessly conquered and sacked. Combined with this prosecution, he and king Philippe also set up arrangements of reconciliation and pardons for those who repented. A military campaign by the rebels was curtailed.

In the early 1570's, Alba had largely succeeded in prosecuting rebels and those considered as heretics. Many convinced Protestants had fled the Low Countries and founded communities in nearby cities such as Norwich, London and Emden. In 1572, a small group of rebels landed in the Low Countries and conquered cities in the province of Holland. The Habsburg army failed in regaining control there and substantial Northern parts of the Low Countries fell under the control of the rebels. A group of radical rebels and Protestants began to harass and at times even kill Catholics, especially clergy, in those regions. William of Orange preferred a settlement in which both Catholics and Protestants would be allowed to exercise their faith openly, but radical groups in many cities continued to act hostile.

Catholics in the Low Countries also began to resent the Habsburg regime. Many families were obliged to host soldiers at home, who treated them badly. Moreover, the regime had troubles in financing the military campaign. These circumstances facilitated the efforts by moderates

to pacify the conflict by reuniting the provinces under control of the rebels with those under Habsburg control. The financial troubles of the army empowered local cities and nobles to take up a more leading role. In November 1576, uncontrolled Habsburg soldiers sacked Antwerp and killed, wounded and robbed thousands of its inhabitants regardless of their religion. Shortly after this event, representatives of all the provinces of the Low Countries agreed upon the reunification of the Low Countries in the Pacification of Ghent. This settlement stated that the Habsburg armies had to leave the region. It also empowered the role of the Estates, the local representation, in the government of the Low Countries. Prosecution on the ground of religion was forbidden and the anti-heresy legislation was suspended. However, a clause on the rights of Protestants and Catholics to worship in places where the other group dominated was not included. Throughout 1577, Catholics who remained loyal to the Habsburg regime and Protestants from Holland, Zeeland and cities in the South such as Antwerp and Gent, which turned into Protestant republics, did not succeed in agreeing upon a settlement that arranged rights for both Catholics and Protestants to publicly worship in the whole of the Low Countries.

In the summer of 1578, the Protestant national synod of Dordrecht sent a request to establish an arrangement to the Council of State and the governor of the Low Countries. The General Estates followed up on the proposal. Especially provinces with a clear dominance of one confession opposed the establishment of a religious peace, as it could empower other groups. Eventually, a final document entitled the Religionsvrede was approved by the Estates General, and authorised by the governor. The peace was passed on to the provinces and the cities of the Low Countries to be implemented. In the following years, 28 cities, among which Antwerp and Utrecht ratified and implemented the peace.

However, shortly after this acceptances, radical Protestants began to take over control of city governments in cities throughout the Low Countries such as Antwerp and Amsterdam. The rights of Catholics there began to be curtailed. In early 1579, Southern provinces that had remained largely Catholic united themselves in the Union of Arras and firmly aligned them with the Habsburg regime. Northern provinces dominated by Protestants and the rebels founded the Union of Utrecht. The foundation of these two Unions inhibited the further implementation of an arrangement of religious coexistence throughout the whole Low Countries.

Key aspects (comparative)

The Religionsvrede is part of a wide range of settlements that aimed at arranging religious coexistence in the sixteenth and seventeenth century. Initially, the rise of the Reformation was followed by efforts of worldly rulers to solve the conflict through disputes by theologians and by a general council. When it became clear that these meetings would not solve the conflicts, worldly rulers such as the Holy Roman Emperor and the French King began to seek more proactively for a solution. Various “religious peace” settlements were established, such as the Peace of Augsburg (1555) in the Holy Roman Empire, and a sequence of arrangements in France, beginning with the January Edict of Saint-Germain (1562).

All these settlements have in common that they provided a politically arranged solution to conflicts that had a religious component. Besides these common traits, many of these

religious peace treaties have distinct features, such as the religious denominations involved, the territory to which the arrangement applied, as well as the role of local rulers and governments.

The Religionsvrede's distinctive features are its combination of being designed to apply to the whole region, while at the same time taking account of local circumstances and religious relations. The peace treaty was aimed at providing the same rights to all inhabitants of the Low Countries: freedom of conscience, amnesty, access to education, hospitals and other institutions that provided care, and equal rights to exercise public office without any distinction in terms of religion. However, public worship was the main exception to this principle. The right to worship in public as a Catholic or a Protestant was bound to particular provinces and local power relations. In the provinces Holland and Zeeland, which were controlled largely by rebels who only allowed the public exercise of Protestantism, the Religionsvrede only allowed the exercise of Catholicism in places where at least 100 inhabitants who lived there for at least a year requested this right. In all the other provinces of the Low Countries, most of which had remained loyal to Catholic Habsburg regime, the exercise of Protestant worship was only allowed if at least 100 inhabitants of one year or more asked for that right. These measures were aimed at reducing the influence of religious migration.

The Religionsvrede was a response to a conflict in which religious and political tensions were strongly entangled. Moreover, the conflict had both an international component as well as a local one. The regulations of public worship are aimed at taking into account local religious and power relations, whereas the introductory preamble of the Religionsvrede hints to the international dimension of the conflict, by lamenting the "Spanish tyranny" of the Habsburg army. The preamble also refers to similar religious peace agreements in the Holy Roman Empire and in France.

The actors involved in the development of the Religionsvrede also had diverse backgrounds. The impetus for the settlement came from the Protestant synod of Dordrecht, which sought to gain a legally enshrined right of Protestant worship. The Estates General of the Low Countries and the Council of State, two governing bodies, were also involved in the development of the Religionsvrede. The Estates consisted of delegations from the clergy, the nobility and the cities of the provinces. The council of state was an executive body that mainly consisted of noblemen. In comparison to other Religious peace treaties from the sixteenth and seventeenth century, and compared to settlements from the pre-modern period in general, the role of a king, prince or other ruler is limited in the conception of the treaty. The Edict of Saint-Germain and the Edict of Nantes in France, by contrast, were royal edicts issued by the king and conceived in his circles. In the genesis of the Peace of Augsburg, the Holy Roman Emperor and regional princes of the Empire had a prominent role. The Religionsvrede, by contrast, was conceived at a moment when royal authority in the Low Countries was weak, which facilitated the prominent role of the cities, religious representatives, and regional nobility.

A different aspect of the Religionsvrede is its specification of the religious confessions covered by it. The settlement explicitly refers to Catholicism –"the old faith"-and to Protestantism –"The pretended Reformed religions". By this specification, the Religionsvrede thus implicitly excluded other confessions from its protection. However, the description of

Protestantism in the treaty was vague enough to allow for interpretations. Unlike the Peace of Augsburg, the Religionsvrede thus did not provide theological specifications about which confessions was exactly protected.

Contemporary relevance

The Religionsvrede is a key example of an early modern settlement of religious coexistence in which responses to religious and political conflicts are deeply entangled. Moreover, the settlement takes into account local balances. In this sense, the treaty points to the value of concrete solutions in long standing conflicts, rather than relying solely on abstract principles. Conflicts such as that in the Low Countries during the sixteenth century had such a variety of dimensions (political, social and religious) that the settlement needed to take these into account.

The Religionsvrede also demonstrates that both religious tensions and their solution had an international dimension. Both the rise of Protestantism, the response of the Catholic Church and the role of the Habsburg monarchy played a role in conflict and in the solution of the conflict. It should be noted, however, that the treaty put the blame for the conflict partially on this international dimension by pointing to "Spanish tyranny" as a cause of the conflict and presented an idealized and innocent image of the Low Countries and its inhabitants.

The success of the treaty's implementation was heavily dependent on a willingness on a local level to execute the rules. Although the treaty took into account local dynamics and power relations, it was not universally accepted everywhere (20 cities throughout the Low Countries implemented it). Moreover, shifting alliances, new agreements and military evolutions on a regional and international scale affected the relevance of the treaty.

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Clippings

- The Religioensvrede and the Reformation
- Religious violence and state authority: Saint Germain clause prohibiting violence
- The Religioensvrede (1578) and the Dutch Revolt
- Freedom to choose between Protestantism and Catholicism: Religioensvrede Article II of the treaty
- Religion and the geography of the early modern Low Countries
- Religious migration in the Low Countries and the Religioensvrede
- The Religioensvrede and singing
- Religioensvrede and Marriage
- Forbidding protestant preaching in Antwerp 1577
- The Religioensvrede and Spanish stereotypes
- Amnesty in the Religioensvrede

Akbar's settlement

Basic Facts

- Involved parties: The Mughal Emperor Akbar and his subjects.
- Date: ca. 1582.
- Place: South and Central Asia.
- Applies to: The Subjects of the Mughal Empire during the reign of Akbar.
- Main outcomes: Akbar's settlement is difficult to narrow down to a specific set of outcomes, as it involved a broad range of policies enacted over a longer period of time. However, the most important result of his rule was the formation of a stable empire in which different religions, first and foremost Islam and Hinduism, lived together in comparatively unconfrontational circumstances. As a second consequence, one can point to the fact that Akbar's interest in different religions and his tendency to spur religious debate still form an inspiration and a model for an 'Indian' form of tolerance.

Context

Akbar's settlement refers to the changing religious policies of the third Mughal Emperor, Akbar the Great, who ruled large tracts of India and South Asia between 1556 and 1605. In order to understand those changes, one first needs to clarify Akbar's background within this large empire.

The Mughal Empire counts as one of the largest Muslim empires in history. It was founded by Babur, a ruler from Central Asia of Timurid and Mongol descent, who first conquered much of today's Afghanistan and from there expanded into northern India. His son, Humayun, inherited a large but unstable empire and was forced into exile in 1540, establishing himself in the Safavid Persian Empire. As a result, Akbar spent most of his youth in Kabul. In 1555 Humayun succeeded in reclaiming his throne and in restoring the Mughal dynasty, even though he died a year later. His fourteen-year-old son Akbar inherited the Empire, although a regent held most actual power until Akbar was considered old enough to rule on his own.

The Moghuls ruled over a vast and diverse empire, were Muslims arguably constituted a minority. Like other Muslims before them, the Moghuls had to find ways to accommodate this diversity. In part, the existing traditions as outlined in, for example, the Pact of Umar, could offer inspiration. However, the majority of the non-Muslim population were not People of the Book (*Ahl al-Kitab*), who shared sacred scriptures with Muslims. The majority of South Asians, especially in the south of the subcontinent, can be viewed as Hindus – hardly a clearly defined religious community but rather followers of a wide variety of religious and spiritual currents, with limited common features. There were also relatively small numbers of Jains, Buddhists, Parsis (Zoroastrians), Jews, Christians, and other, mainly local religions and spiritualities.

To understand the way the Moghuls, and Akbar in particular, dealt with this diversity one should first of all understand the pragmatism and flexibility of Islamic thought and practice.

There was for instance no unanimously accepted understanding of the *sharia*, which cannot be considered a clearly defined legal system. In Moghul India the sharia in practice coexisted, in a way 'competed', with a complex body of so-called 'Hindu Laws'. Muslim rules, already during the early days of the Delhi sultanate, dealt with the non-Muslim population somewhat similarly as if they were *dhimmi's* (protected people, a concept originally reserved to 'People of the Book' who accepted the dominance of Muslims and paid the *jizya*, a religious tax).

Both Akbar's father and grandfather had ruled large dominions but they had failed to stabilize their own position. It was through thorough domestic reform that Akbar overcame this problem of instability. Akbar reformed the imperial household, changed the status and position of the nobles within his realm, tried and refined different taxation systems, and stimulated trade and commerce. These internal actions stabilized the territories he conquered, providing the Mughal Empire with a governmental system that would flourish until the early eighteenth century and would keep the Mughals in power until the mid-nineteenth century.

Famously, the domestic actions and reforms of Akbar also concerned religion. Akbar himself was considered to be a devout and even militant Muslim. In the first part of his reign, he suppressed variants of Islam which he considered heretical. In the 1570's this confrontational policy was altered radically, as Akbar took a much more tolerant perspective to variants of Islam and at the same time awarded himself with important religious powers. In 1579 he ensured that the major *Ulema* (Islamic religious teachers) in his realm signed a declaration that awarded him the title of Caliph. This move buttressed Akbar's power domestically – the Emperor now had the right to adjudicate in all matters of religion – and internationally, as he now was a rival source of religious authority to the Ottoman Caliphs. His increasing powers led to opposition and even rebellion by some of the Muslims in the Empire, especially those groups who experienced a gradual loss of power because of Akbar's policies.

One important reason for that loss of power, beyond the Ulama's subordination to a new Caliph, were Akbar's good relations with non-Muslims, especially the Hindu's of his Empire. As Akbar subdued territory after territory, the ethnic, cultural and religious diversity of his subjects increased well beyond the diversity experienced by Babur and Humayun. Especially the inclusion of scores of Hindu subjects (and their former rulers, Hindu nobles) was a major new element, forcing Akbar to move beyond his purely Islamic background. For example, in order to minimize the resistance against his rule and religion, Akbar pursued an active marriage policy with the Hindus. Both he himself and his family members married into the families of prominent Hindus, binding himself and his dynasty to this part of the Empire. Moreover, Akbar ensured that his Hindu family members were treated on par with his Muslim family members. With regard to the population of 'common' Hindus, Akbar abolished the payment of the *jizya* in 1564. Measures such as these reduced resistance in the newly conquered territories, but at the same created resentment amongst certain Muslim groups, as they felt that the Emperor's attitude and actions formed a threat to Islam's dominance.

Although the creation of bonds with Hindu families and the propagation of tolerance between Muslims and Hindu's formed one important aspect of Akbar's religious policies, another was his religious curiosity. Today, Akbar has indeed become famous for his interest in other religions and in mystical traditions, in particular Sufism, and especially his stimulation of religious debate has drawn attention. Akbar indeed organized discussions between different religions

opinions, first within the Islamic tradition but subsequently also between Muslims and non-Muslims. In 1575 a special hall, the *Ibadat Khana*, was built specifically for this purpose. Akbar himself also partook in religious enquiries and discussions. The – in Europe – most famous example of this was his invitation to the Jesuits of Goa, who were asked to explain their Christian religion to him. Akbar also had the New Testament translated and allowed the Jesuits to preach their religion if they wanted to.

As these discussions progressed, the Emperor increasingly changed his perspective on the religions he encountered. In 1582 Akbar reportedly 'founded' the *Din-i Ilahi*, a synthetic 'religion' which merged different Islamic traditions with elements of Hinduism, Buddhism, Christianity and Zoroastrism. However, the limited number of adherents to the religion, all hand-picked by the Emperor, has cast doubts on whether or not the *Din-i Ilahi* was a true religion or actually a new governmental system that again placed Akbar firmly at the top. It has been argued that the *Din-i Ilahi* was merely a further expression of Akbar's idea that all religions have some elements of truth in them, coupled to the expression of certain ethical and personal values, including loyalty to Akbar as supreme religious arbiter. In any case, the *Din-i Ilahi* never became a major religious force: Akbar's successor, Aurangzeb, again sought closer bonds with Islam.

Key Aspects (Comparative)

Akbar's radical approach towards religious pluralism has stirred a lot of discussion. For many historians Akbar is an outliner in Islamic history – the idea itself that a Muslim can be the promoter of tolerance and religious peace seems anathema, and that his ideas could be part of a long tradition in Islam simply unthinkable. That is certainly the tendency in many textbooks in India today. Akbar's ideas then must have come from other Indian or Central Asian traditions. But one can easily sense an anti-Islamic bias in this kind of arguments. As the above discussions about the Constitution of Medina and, to a lesser extent, the Stipulations of Akbar suggest, there is a long tradition of accepting religious pluralism in Islam, leading to a wide variety of concrete practices, from all-but compulsory conversion (although forbidden by the Quran) to peaceful coexistence and complex forms of managing diversity as in al-Andalus and the Ottoman Empire. In that perspective Akbar's religious policies can be viewed as one more variant in the rich pallet of Islamic forms of government. If there is one thing scholars of Islam agree upon, it is that we must refrain from seeing Islam as a monolith.

Recent research, however, shows how these two interpretations of Akbar's policy may be both valid. In that respect scholars should include a more diverse pallet of sources in different languages – like many South and Central Asian cultures, Moghul India was effectively a multilingual empire not only in its government and in its people, but also in its intellectual interactions. Moghul scholars worked in Arabic as well as Persian and Turkish languages, and were influenced by diverse cultures, including ancient Greek for example. In that respect it is worth to try to trace the intellectual history of the key concept in Akbar's religious and political view *Sulh-i-kul*, which is usually translated as universal peace but is a far more complex concept.

In a very recent publication (2022), Jos Gommans and Said Reza Huseini from Leiden University argue that the concept of *Sulh-i-kul* was at least in part inspired by Neoplatonic and Central Asian, including Mongol ideas, which were promoted by migrants from Iran, Central Asia and Afghanistan (where the last Mongol Empire of Timur Leng – Tamerlane – blossomed in the fourteenth century). These ideas had a noticeable impact upon Akbar's main spiritual advisor, Grand Vizier Abul Fazl ibn Mubarak. The latter co-ordinated and edited a huge multi-authored Mughal World History in Persian (*Tarikh-i Alfi*), in which also the Pax Mongolica as established under Chinggis Khan and his successors figures. Akbar's openness and in particular the religious debates he organized, strikingly recall the practices at the Mongol court of Genghis Khan, who likewise organized open debates between different religious and spiritual leaders. Akbar also in other respects revived Mongol and Timurid forms of government. Abul Fazl moreover is a key figure in the 'neo-platonist renaissance' under Akbar, as comes to the fore in the *Akbar Nama* proclaiming a new era spearheaded by a messianic 'philosopher-king', Akbar. Neo-platonist ideas of self-awareness, enlightenment and social harmony can clearly be discerned in Akbar's thought.

But at the same time one should that the concept of *Sulh-i-kul* built upon a long intellectual history within Islam. Historian Rajeev Kinra particularly points at the importance of the concept of *Ṣulḥ*, which went back all the way to the time of the Prophet Muhammad and refers to ways to achieve peace and reconciliation after conflicts, first and foremost within the Muslim community as well as between states. It contains a strong moral appeal towards toleration increasingly extended to include to non-Muslims. The concept of *kul* ('all') is usually referred to as a conciliatory opening towards non-Muslims, in particular Hindus. But as Kinra argues, *Sulh-i-kul* should be interpreted in a more abstract way, as an attitude of openness and acceptance of religious, spiritual and philosophical variety in general, transcending the religious boundaries and opposing all kinds of partisanship and incivility, including between Muslims – perhaps the main focus – and as a principle of good governance.

What these two different views on the history of Akbar's thought mainly demonstrate, however, is not that scholars disagree and even less that toleration is a typical or, in contrast, alien concept in Islam, but that Moghul India under Akbar represents a complex and to some extent unique blend of different ideas and influences, and that is actually characteristic for all, Islamic as well as other, civilizations.

Contemporary Relevance

Akbar's settlement furthermore offers two important reminders for today. The first is that Islam has coexisted with other religions for a long time on the Indian subcontinent, as well as across the rest of Asia. At a time when religious history is generally perceived as a history of fierce confrontation, fitting political narratives, Akbar's policies highlight that religious diversity could be organized successfully in the past, even within the context of large and powerful empires. Secondly, the settlement of Akbar forms a reminder for European audiences that the world of Islam was and is larger than the history of the Middle-east, encompassing many variants and taking on many (political) forms. It also shows that Islamic rulers and thinkers have their own traditions of religious tolerance, preceding the heavily rights-based American and European traditions.

Therefore, this difference from the European perspective on tolerance and diversity makes the settlement highly interesting for European audiences, exactly because it offers something novel. Because the example of Akbar is situated outside of many current debates about tolerance and diversity, bringing his perspective in can open up interesting new arguments.

Finally, Akbar's rule and policies can connect to contemporary debate in India about the coexistence between Muslims and Hindus. Tensions between both groups have been on the rise in recent years, in part due to the fact that a Hindu-nationalist party currently holds power. Regardless of the specific 'lessons' that are derived from the settlement, it is an important point of reference within Indian history, one that directly connects with on-going debates in Indian society.

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- Debating religions under Akbar
- Tolerance for temples
- Discussing different religions (and your marriage)
- Giving a mixed gift
- Marrying another religion

Edict of Nantes

Basic Facts

- Involved parties: King Henry IV issued the Edict
- Date: 1589
- Place: Kingdom of France. This is a historic region that largely, but not completely overlaps with contemporary France.
- Applies to: inhabitants of the French Kingdom. In particular aimed at French Protestants.
- Main outcomes: A set of limited rights to French Protestants. They were allowed to publicly worship and have their own buildings for that. They were also allowed to hold on to fortifications in predominantly Protestant areas. Besides these rights, Protestants were also submitted to various restrictions. In particular, they could not worship at the Royal Court, in the French army, and in Paris. They were also expected to respect public Catholic festivities and adapt to those, for example by closing their shops. After the Edict, Catholicism remained the norm in France, and Protestantism a tolerated exception. Throughout the seventeenth century, the rights of Protestants were eroded. The Edict of Fontainebleau (1685) revoked the Edict of Nantes and abolished rights for Protestants in France.

Context

From the middle of the sixteenth century, the Reformation had gained popularity and following in the Kingdom of France. The French monarchy remained Catholic and initially had sought to repress the Reformation as heresy. The sequential death of King Henry II (1559) and his son Francis II (1560) brought the 10 year old Charles IX to the throne, with his mother Catherine de' Medici as governess. Initially, they sought to solve the conflict by facilitating an interconfessional dialogue that should reunite Catholics and Protestants (the Colloquium of Poissy). As that strategy failed, the King issued a royal edict –the edict of Saint-Germain (1562)- that provided limited rights to worship in public for Protestants. This solution failed due to a legal conflict, hostility from radical Catholics and dissatisfaction from radical Protestants. This tension led to the outbreak of a civil war. Throughout the next four decades, this war was interrupted by moments of temporary pacification. However, several issues contributed to the continuing tension and war.

Firstly, the unexpected death of Henry II and his minor son shortly thereafter had put the Valois dynasty in a difficult position. In the first years of Charles IX's rule, his mother Catherine de' Medici played a prominent role as governess. Her background as member of a relatively new Italian ruling dynasty made her a distrusted figure. Moreover, she was a Catholic, but by issuing the Edict of Saint-Germain, she had shown she was willing to compromise in favour of Protestantism. This combination made her suspicious for both radical Catholics and Protestants. Moreover, all of Catherine's sons remained childless, which threatened the survival of the Valois dynasty. Charles IX died in 1574 at age 23 without children. His brother Henry III succeeded him and ruled for a longer period but also remained childless. This

situation incited uncertainty and conflicts about who was the next in succession for the French throne. Moreover, king Henry III was depicted by both Catholic and Protestant critics as a feeble, almost degenerate figure. Therefore, his authority and that of the dynasty throughout his kingdom weakened.

This situation of the monarchy was also complicated by a second main issue. The tension between Catholics and Protestants in France was strongly entangled with conflicts between prominent French noble families and courtiers. The Guise family aligned itself with the cause of radical Catholicism, whereas the main branch of the Bourbon family became the leading supporters of the Protestant cause in France. Besides these two parties, there were other factions within the French nobility. The “politicals” were a group of nobles who supported a strong monarchy as the solution of the conflicts in France. This group consisted of both moderate Protestants as well as Catholics. Finally, the “Malcontents” were a group of nobles who opposed the rise of authoritarian rule by the king and sought to safeguard the privileges of noble authority.

A third issue was the intensity of religious violence. Although political and religious tensions were deeply entangled, this does not mean that the religious conflict was merely subjected to political dynamics. Many of the involved actors were driven by deeply held religious convictions. Their beliefs guided their actions and often inhibited them to compromise in finding a solution for the religious wars. Both Protestants and Catholics considered the actions and the presence of members of the other confession as a polluting element in local communities and in the kingdom. Protestant were in particular disturbed by the use and veneration of relics and other religious objects by Catholics. They violently turned against such objects such as statues and sculptures of the Virgin Mary. Also Catholic clergy, monasteries and abbeys were a target of Protestant violence. For Catholics, the words of Protestants expressed in their preaches as well as their physical presence was a pollution to the community. They therefore engaged in physical violence against them. For Catholics also the presence of the bodies of deceased Protestants at cemeteries as a pollution, and they violently turned against such funerals.

The largest and most shocking moment of religious violence in France was the Saint-Bartholomew’s Day Massacre (1572). In August 1572, the most important members of the French nobility, among which many leading Protestants, had gathered in Paris to attend the wedding between the king’s sister Margaret Valois and Henry III of Navarra, a leading Protestant and member of the Bourbon family. Shortly after the wedding, a failed murder attempt at Protestant leader and adviser of the king admiral Coligny had brought an increase in tensions. Fears rose that Protestants would seek vengeance for this attack. In response, radical Catholics decided to assassinate the gathered Protestant leadership, among which Coligny. These led to a wave of killings in the following days, not only in Paris but throughout the kingdom. It was never clearly established who had made the decision to kill Coligny and the Protestant leadership. The massacre had a deep effect on Protestants in France and throughout Europe. With much of the Protestant leadership dead, the remaining Protestants held a deep distrust towards Catholics and the French Monarchy.

Throughout the period of the 1570’s and 1580’s, Catholics also started to radicalize. Fuelled by fears about the approach of the end of times, they intensified their hostility towards Protestants. In a response to the dominance of Protestants in some French regions, the Guise

family formed the Catholic League. This organisation united various local Catholic organisations and became the most important opposing force against the pacifying stance of the French Monarchy. Through the 1580's, they took over control in various French cities, thus undermining royal authority. They had a particularly large following in Paris, and in 1588 took over the French capital. Henry III had to flee and began to besiege his capital. King Henry III arranged for the assassination of the League leader in 1588, but was assassinated himself shortly after that.

The death of Henry III ended the Valois dynasty, and Henry of Bourbon became the heir to the French throne. He was a prominent Protestant leader, and thus was unacceptable as king for radical Catholics. Henry IV waged a war against the League. In 1593, Henry abdicated from Protestantism and became a Catholic. This made him more acceptable as king for moderate Catholics and contributed to his defeat of the Catholic League. However, many French Protestants felt betrayed by this conversion and by Henry's initial hesitance to extend tolerance to them. Finally, he did so in 1598 by issuing the Edict of Nantes.

Key Aspects (Comparative)

The Edict of Nantes is part of a wide range of settlements that aimed at arranging religious coexistence in the sixteenth and seventeenth century. Initially, the rise of the Reformation was followed by efforts by worldly rulers to solve the conflict by theologians through disputes and by a general council. When it became clear that these meetings would not solve the conflicts, worldly rulers such as the Holy Roman Emperor and the French King began to seek more proactively for a solution. Various "religious peace" settlements were established, such as the Peace of Augsburg (1555) in the Holy Roman Empire, and a sequence of arrangements in France, beginning with the January Edict of Saint-Germain (1562). The Edict of Nantes was the final piece of legislation in this sequence.

All these settlements have in common that they provided a politically arranged solution to conflicts that had a religious component. Besides these common traits, many religious peace treaties have distinct features, such as the religious denominations involved, the territory to which the arrangement applied, as well as the role of local rulers and governments.

The Edict of Nantes was a Royal edict in which the French king imposed detailed rules to facilitate coexistence between Catholics and Protestants in his kingdom. Whereas the Edict of Saint-Germain (1562), the first legislation that allowed Protestant worship in France, was a relatively short document, the Edict of Nantes was much longer. Almost four decades of war interrupted by pacification edicts that were contested had shown that detailed and well stipulated rules were necessary.

The detailed arrangements of the Edict of Nantes were aimed at both safeguarding and limiting the rights of Protestants in France. They were allowed to worship in public and have buildings to celebrate. Moreover, to protect themselves in regions and cities where they were the majority group, such as La Rochelle, they were allowed to hold fortifications. They were granted participation in local governments, in proportion to their degree of presence. However, the rights of Protestants were also subjected to limits. They were not allowed to worship in Paris, at the Royal Court, or in the Royal army. They had to set up separate funeral grounds and had to respect Catholic holidays, for example by closing shops and not openly

work on those days. Various other articles of the Edict were also framed as protecting Catholics

The Edict of Nantes thus created an arrangement that safeguarded a large set of rights and obligations for French Protestants. However, it also openly put them in a less favourable position than Catholics. This settlement was thus not established based on abstract principles of toleration or equality, but rather was developed as a very concrete and practical solution to a long standing conflict.

Contemporary Relevance

The Edict of Nantes and its afterlife demonstrates the strategies and effects of Early Modern government intervention in religious conflicts. The Edict provided rights to an important religious minority in order to appease that group. However, it continued to treat this group as a deviant one and considers one confession as a privileged one. This settlement may be relevant to compare to contemporary polities that have an official state church and/or that issue official state recognition to a limited group of confessions and religious movements. The case of the Edict of Nantes thus challenges to reflect upon the impact of state intervention in hierarchies and power relations between religions and confessions.

The Edict of Nantes' length and level of detail points to the impact of precise regulation in order to settle conflicts. As the Edict settled a decades long conflict, its drafters aimed at preventing further violent conflicts by precise stipulations. This level of detail may be compared to that of the Good Friday agreement and of the Orhid framework, which both settled a concrete violent conflict.

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Edict of Nantes: context

The Edict of Nantes and the commissioners

Henry IV and the Edict of Nantes

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Edict of Nantes: Shop-keeping and religious holidays

Peace of Westphalia

Basic Facts

- Involved parties: France, Sweden, The Emperor, The Estates of the Holy Roman Empire and the Seven northern Provinces of the Low Countries and Spain
- Date: 30.1.1648 and 24.10.1648
- Place: Münster and Osnabrück, two neighbouring cities in Westphalia
- Applies to: the involved parties, mainly to the Holy Roman Empire and the Dutch Republic
- Main outcomes: Three treaties: Peace of Münster between Spain and the Northern Provinces of the Low Countries about their independence from the Habsburg rule; Peace of Osnabrück between Sweden, the Emperor and the German Estates and Peace of Münster between France and the Emperor, bringing to end the Thirty Years War. New political institutions for the Holy Roman Empire. Regulations of religious toleration and emigration.

Context

The Peace of Westphalia contains of more than one peace treaty. It ended two long-lasting military conflicts, which were partly intertwined: The Eighty Years War, the struggle for independence of the Northern Provinces of the Low Countries from the Spanish Habsburg rule, which began in 1568 and ended with the Peace of Munster in January 1648, and the Thirty Years War, a bloody and tedious struggle for religious and state order within the Holy Roman Empire. This empire was the largest and most populous country in Europe at the time. It included not only Germany and Austria, but also territories, which belong today to the Czech Republic, northern Italy, southern Denmark, eastern France and western Poland. A further nine larger and smaller European states were either directly involved in the war or provided one or more warring parties with financial means or soldiers.

The Eighty Years War, or Dutch Revolt, was a conflict between the Habsburg rule of the Low Countries and a group of nobles and civilians that opposed the regime’s policy of strict religious prosecution against Protestants (see Report Religionsvrede for an elaborate discussion). By the beginning of the seventeenth century, it had turned from a civil war with international dimension into a conflict between the Habsburg regime, which controlled the Southern provinces, and the Northern provinces where the opponents of the regime had developed their own state, known as the Dutch Republic. The war was fought out both in the Low Countries and in the Dutch and Spanish colonies in the Atlantic and Indian Ocean.

The reasons for the Thirty Years War have been intensively discussed and are subject to many models and theories. The war might be seen as a consequence of major fundamental developments: the climatic changes of the Little Ice Age or changes in the political order that triggered "state-building wars". Other interpretations place the Thirty Years' War in a longer-lasting struggle between the French kings and the House of Habsburg for supremacy in Europe. A variant of this approach is to argue that the Thirty Years' War began with the

uprising of the Estates in Bohemia in 1618, but that then the original participants in the war quickly lost control of the events. The most widespread interpretation states that it was the last and most severe religious war in a whole age of religious wars that began in 1517 with the Reformation. The inner tensions of the Peace of Augsburg 1555 (see there) and the growing confessional fundamentalism on all sides finally led to a military outbreak. Each of these theories have arguments in favor and against it. They all understand the war as inevitable. Below this stratum of structural explanations one can name other factors and triggers for the war, like the rivalry between the Catholic and the Reformed branch of the princely house of Wittelsbach or the end of the fight of brothers within the house of Habsburg, the Swedish strive for a Northern dominium or other motivations. These kinds of political explanations help to understand the actions of the different parties, but may perhaps not explain how the war turned from a local conflict to a long-lasting European war.

Whatever the reasons for the war may be: it lasted for three decades, devastated wide regions of Germany and claimed millions of lives. To bring it to an end took years and needed a yet unseen kind of Peace congress. Because the Pope as head of the Catholic church and the Swedish king as the leading Lutheran ruler refused to negotiate directly with each other, the congress divided into two: In Münster, the French and the Imperial delegations negotiated with papal mediation. In parallel, diplomatic representatives of Spain and the Reformed Dutch Netherlands met there for separate peace talks. In nearby Osnabrück, the Swedish delegation met with the envoys of the Emperor and the German Estates. The negotiations lasted for more than three years, while the war went on. Finally, the Spanish and the Dutch side agreed on the Peace of Münster on January 31st, 1648 to bring an end to the Eighty Years War. It was ratified on May 15th in the Münster town hall. The Westphalian Peace, consisting of the Treaties of Münster and Osnabrück, was finally settled on October 24th, 1648 and was immediately made known to the public in proclamation and print.

Key Aspects (Comparative)

Like the reasons for the Thirty Years' War, the conflicts to be solved in the Westphalian Peace consisted of religious and political problems, which were closely interconnected. The Peace managed to find solutions for both strands of problems and thus opened the way for a more stable (if not completely peaceful) political system for the Holy Roman Empire and in central Europe.

With regard to confessional relations, the authors of the peace treaty could go back to a model that had in spite of some shortcomings had proved to work for decades: They restored and improved the Religious Peace of Augsburg 1555 (Art. V, §1.). In addition to Catholicism and Lutheranism, the Peace extended religious toleration to a third confession, the Reformed faith (Art. II). To balance the confessional situation on the level of the Holy Roman Empire, the treaty created confessional parity in Imperial collegial institutions and replaced the majority rule in the Diet with two confessional caucuses of the Estates (the so-called *corpus Catholicorum and Evangelicorum*). In cases of conflict, the two caucuses should deliberate separately (*itio in partes*) and try to find a mutual friendly agreement (*amicabilis compositio*). Hence no confessional party could be overruled by a majority any more.

On the level of the territories the treaty recognized the ownership of confessional lands and incomes according to the benchmark of January 1st, 1624 (Art. V, §2). This benchmark was called the "normal year." Since the vicissitudes of war had brought so many changes in rulership and confessional adherence to the German lands that it was impossible to balance them between the conflicting parties, the negotiators agreed on returning to the situation of one particular point of time, the normal year. Moreover, the Peace cancelled the rulers' right to order subjects to choose between religious conformity and emigration. Inhabitants of a different faith should be mercifully tolerated and should be given freedom of conscience. This included permission for church services to be held at private homes, visits to congregations outside the country and permission to have children taught at home or in foreign schools. (Art. V, §34). Followers of the other, i.e. Protestant or Catholic faith, enjoyed certain minority rights. These included legal and political equality and eligibility to the bodies of representation, but also the right to be buried in the local cemetery. Even the expulsion for religious reasons, which continued to happen albeit all religious tolerance, was limited by law: Those who had to emigrate were allowed to sell or take their property with them.

Apart from the Northern Netherlands, which became independent from the structures of the Empire through the Peace of Münster, the Westphalian Peace recognized the formal dissociation of the Swiss Confederation with the Imperial corporate order (Art. VI). Despite long and detailed regulations in the treaties of Münster and Osnabrück, many details remained unsolved. Because the fighting had continued during the Peace Congress, thousands of soldiers were still under arms when the Peace treaties were signed. It took two more years until the Nuremberg "Exekutionstag" congress in 1650 to find regulations for dissolving the armies and to bring together the money for the demanded reparations.

The Peace of Münster served as the definitive recognition of the Dutch Republic in the international diplomatic system of Early Modern Europe. The Habsburg ruler of the Low Countries gave up his claims on his former territories in the North of the Netherlands. The Southern Provinces, where the revolt had largely initiated in the 1560's, remained under Habsburg rule. Catholicism was the only tolerated confession there. The Dutch Republic did not have an official confession, but was dominated by Calvinist regents. Most other confessions were tolerated, but Catholics were not allowed to worship in public. In the Peace of Münster, both parties agreed they would allow their inhabitants to travel between them if they respected the local confessional restrictions.

While the three treaties of the Westphalian Peace brought (preliminary) peace to the Holy Roman Empire and the Dutch Republic, the war between France and Spain continued for another eleven years until the Peace of Pyrenees 1659. And the signatory powers of Sweden and France saw new wars (not only in defensive attitude) within the next two decades. So the Peace treaties did not bring a long-lasting period of peace for all participants. The Westphalian Peace however became soon the reference point for all new peace treaties in Europe and was referred to in almost every text of Peace treaties until the Congress of Vienna. It established new ways of negotiating conflicts and secured basic religious rights for minorities while reducing the influence of confessional partisanship on international relations.

Contemporary Relevance

The Westphalian Peace – a possible solution to the Syrian conflict?

In the last years, Historians as well as politicians have drawn lines of comparison between the conflicts of the Thirty Years War and the situation in Syria today: A long-lasting conflict starting from a local rebellion, fuelled by confessional differences and the participation of foreign powers, an incredible degree of suffering for the population and groups of mercenary fighting for money or on their own account – these are elements which characterize both conflicts despite 400 years of temporal separation. Given these parallels, the example of the Peace of Westphalia is regarded as a possible solution. For example, the then German Secretary of State and todays President Frank-Walter Steinmeier referred to it in a speech of 2016 on the German meeting of the Historians society.[3] He warned about trying to impose a foreign system on the region. But he suggested to take an example from the way Peace was negotiated in Westphalia.

Many commentators have taken up this and further developed the concept; others severely refused it. Possible elements of relevance for today however might be seen in the following points: In order to defuse the religious conflict, the question of "religious truth" should be separated from the political conflict. An effective protection of religious minorities must be guaranteed, and forms of religious coexistence need to be secured. All parties, the domestic groups as well as the foreign powers involved in the conflict, have to be included in the peace treaty. A system of guarantee powers should make sure that all minorities can claim their rights.

While these points show how much the principles of the Westphalian Peace have become key elements of international relations and have opened the way to the formulation of general Human Rights, other points of the treaties seem to be impossible to use today: The Westphalian Peace (and almost every other Early Modern Peace Treaty) opened with a General Amnesty (Art. II): What had happened during the war should be forgotten and buried in oblivion. This is not a viable way to deal with conflicts today any more: Since the Rome Statute of 1998/2002, every war criminal has to be aware that he might be accused at International Criminal Court in Den Haag. In this respect, the Early Modern way of finding peace is not viable any more.

Yet, as Frank-Walter Steinmeier puts it,[4] "the Peace of Westphalia does not offer us a blueprint for peace in the Middle East. If we look closely enough, it offers us instruments, methods and ideas. We have to recognize them, work them out, refine them and then use them for current diplomacy." In this respect, the Westphalian Peace might have a high relevance for today.

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Clippings

Westphalian Peace 1648 – Map Officially accepted religions in European territories 1648

Westphalian Peace 1648 – Video clip on the end of the Thirty Years' War

Westphalian Peace 1648 – Hans Heberle on the end of the war

Westphalian Peace 1648 – Hans Heberle on the end of the war 1650

Westphalian Peace 1648 – Picture of the signed treaty

Westphalian Peace 1648 – Paragraphs I and II

Westphalian Peace 1648 – Paragraphs V Art. 1

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Westphalian Peace 1648 – Paragraphs V Art. 35-36

Westphalian Peace 1648 – Painting ter Borch

The Catholic mission in the Dutch Republic

Westphalia Peace of Münster Article 19: Religion and mutual visits in the Low Countries

Westfalen: Protestants in the Southern Low Countries

Westfalen: Religion and global empire

Charter of Rhode Island and Providence Plantations

Basic Facts

- Involved parties: King Charles II, Roger Williams, John Clarke
- Date: 15 July 1663
- Place: Rhode Island and Providence Plantations. A settlement on the north of the east coast of the American continent. This overlaps largely with the contemporary state of Rhode Island
- Applies to: All inhabitants or Rhode Island, the Providence Plantations and the Narragansett Bay.
- Main outcomes: The Charter acknowledges and approves the “lively experiment” that the inhabitants of the settlement had initiated three decades earlier. This entailed a radical freedom of religions and a wide concept of tolerance. Everyone has freedom of conscience and is protected from prosecution on the base of religion or religious opinion.

Context

From the sixteenth century onwards, Europeans began to explore and colonize parts of the American continent. Initially the Iberian monarchies Spain and Portugal drove this exploration and settlement. They concentrated on the middle and southern parts of the American continent. In their footsteps also Catholic missionaries followed them. By the beginning of the seventeenth century, also England began to support efforts of exploration and colonization. These English settlements were founded in North America, in what is now known as Virginia, Delaware, Maryland, Pennsylvania, New York, Connecticut, Rhode Island and Massachusetts. The Dutch Republic also held settlements in these areas, but these were less populated and in a later stage were taken over by the English.

Many of these colonies were founded with economic aspirations to acquire, trade and grow various products such as tobacco and furs. However, many of the settlements also had a religious dimension. This religious component was strongly connected to religious policies and evolutions in Europe and on the British Isles. In England, the Church of England was an official state church headed by the monarch. Catholics were largely oppressed and prosecuted. Some forms of Protestantism that deviated from the Church of England or opposed it were treated with more leniency, but such movements also were subject of discrimination. A considerably large group of such non-conforming (i.e. deviating from the Church of England) Protestants were known as “Puritans”. Unsatisfied with their position in England, many migrated to countries on the European continent and to North America. They settled in particular in the region of New England.

In areas such as the Massachusetts Bay, harbouring the newly founded town of Boston, the Plymouth colony and in New Haven, Puritans began to hold an important presence in the first half of the seventeenth century. They received a relatively strongly liberty from the English crown to establish a local regime of governance there. Contrary to England and Europe, these

area's hosted relatively few members of the clergy, thus leaving religious organization largely in the hands of the laity. These laypeople formed congregations to organize their churches. Puritan churches set high standards for membership and kept their governance in the hands of a small group of "saints" who were deemed worthy enough.

Puritans had an ambiguous relation with political governance. They sought to defend their churches from government intervention. At the same time, they were convinced that civil government should contribute to the protection of civic peace against interruptions from religious dissidents. Hence, such dissidents were prosecuted in the American colonies that were dominated by Puritans. Especially Quakers were subjected to sever punishments. They believed in a direct connection between believers and God and rejected church structures and traditional theological doctrines. As they turned at times active against religious practices of other movements and confessions, they were severely punished for their "transgressions". They were often banned from the Puritan New England colonies or physically mutilated and sometimes even executed when they refused to leave.

Besides these tensions between Puritans and those that held other religious opinions in the colonies, the communities of settlers also had a complex and overall deteriorating relation with the original inhabitants of the American continent. Contacts between the European colonists and the Native American population had led to peaceful exchanges and help in food supply. However, it had also exposed the original population to European diseases, which led to a high death toll among them. Moreover, most of the European settlers were deeply distrustful, if not hateful towards the native population. They considered them as pagans and at times as possessed by the devil. Moreover, the settlers considered them as nomadic people who did not own the land on which they lived. Hence, the European colonists claimed that the King of England was entitled to distribute the land among them. Various extremely violent conflicts and wars took place between the new settlers and the original population.

The English settler Roger Williams viewed and experienced these evolutions with revulsion. Originally a Puritan himself, he had spent time in England among Puritans and had developed a strong opposition against the Church of England before migrating to Massachusetts. There, he started to get acquaintance with the local Narragansett population south of Massachusetts and learned and studied their language, about which he published a dictionary, which also can be read as a strident critique of European and Puritan ways of life. He entered into conflict with the Puritan leadership of Massachusetts about their right to use civic authority to discipline their community and had to flee the colony, finding refuge with the Amerindians.

Williams bought land from the original population and started his own settlement in the area of Rhode Island. That settlement soon became a safe haven for various religious dissenters. Although Williams personally strongly despised them, many Quakers found refuge there. too The Rhode Island settlement gained recognition from the English government in 1644 under a Patent, and in 1663 the recognition was re-established as a Royal Charter

Key Aspects (Comparative)

The Charter of Rhode Island and Providence Plantations is a relatively short legislative document that served as a kind of constitution for Rhode Island up until 1843. The document organized a variety of issues related to the governance and rule of the settlement, such as

commerce, the institutional organization of government, the election process, and the religious order. The first paragraph gives a prominent place to the religious inspiration to found the settlement. It also points at peaceful encounters with the Native American population of the region, and to the disagreements that the settlers had in the other colonies prior to coming to Rhode Island. The Charter thus acknowledges a concrete prehistory of both peaceful inspiration and of previous conflicts that inspired it. However, unlike European religious peace arrangements such as the peace of Augsburg, the Religionsvrede, or the Edict of Nantes, the Charter did not set up a detailed and limited arrangement to facilitate religious coexistence.

The Charter rather set up an open regime of “full liberty in religious concernments”. This arrangement is explicitly described as a “lively experiment”. The explicit experimental character of the Charter is indeed one of its most distinctive characteristics. In early modern Europe, most settlements to arrange religious coexistence had been a response to a situation of conflict and had sought to contain that conflict by giving rights to a limited group of confessions. Some treaties, such as the Edict of Saint-Germain, stressed the temporary nature of such a settlement and the aspiration to return to religious unity. In the Charter, religious diversity is not framed like that, but rather considered as a positive force that can be the subject of experimentation. The experiment of Rhode Island is presented in the Charter as feasible because it is isolated enough, and it is also subjected to limits. The Charter explicitly states that the experiment is approved because it runs in a place that is geographically very distant from England. King Charles II, who formally issued the Charter, hoped that this distance would safeguard the “unity and uniformity established in this nation”. A second limit on the full liberty is formulated as the importance of respecting other laws, so that the liberty would not lead to profanity and other forms of civil injury and disturbance of others. This clause may be compared to the clause in the Declaration on the Rights of Man and of the Citizen in which the law serves as a limit on the freedom of opinion.

The Charter is drafted as a document granted by King Charles II and thus at face value may be read as an individual top-down decision. However, the Charter was a response from Charles II to a bottom-up initiative from the settlers on Rhode Island. Many of the idea’s that were developed in the Charter had been developed by Roger Williams, as well as by other settlers named in the Charter. The ideas, convictions and experiences of individuals and of the community they formed were thus of key importance in the development of this settlement. This stands in contrast with many European settlements that were the outcome of a long conflict between various organized confessions and governments. As such, the Charter may be compared with the Ashoka edicts and Akbar’s decrees, which are both documents in which an individual develops a new and uncommon policy towards religious coexistence.

Contemporary Relevance

The Charter of Rhode Island is at times invoked as a key document in the history of religion and religious diversity in the United States of America. The clear separation between worldly government on the one hand, and religious organization on the other hand indeed has resonated strongly in later American principles and legislation. Moreover, Roger Williams’

conception of mere civility has recently been invoked by political theorist Teresa Bejan as an important example to organize contemporary disagreements.

Besides these direct connections, the case of the Charter of Rhode Island may also challenge to reflect on the potential of experiments with religious tolerance. The arrangements outlined in the Charter were a new, unusual, and perhaps even unimaginable conception of tolerance and coexistence up until that point. Yet it proved a functional and long lasting model of coexistence. The Charter may therefore be seen as an inspiration to reflect on alternatives that go beyond current intellectual and legal repertoires and models of living together.

Related to the experimental character of the Charter, also the role of new individual experiences and religious and cultural encounters may serve as a stimulus for reflections on contemporary modes of coexistence. The Charter is the outcome of experiences of religious coexistence (or lack thereof) by a group of individuals. Roger Williams had a negative previous experience with the lack of tolerance in the Massachusetts Bay colony, and had a positive experience from his encounter with the Native American population. Based on these experiences, he and the other settlers developed an alternative model. The Charter therefor may challenge to take into account concrete experiences of coexistence and tolerance, besides abstract reflections and models.

The Charter also stimulates reflections on the role of legislation and of the state in facilitating religious coexistence. The Charter provides a legal framework that provides a broadly conceived model of religious freedom. It does not single out particular confessions as recognized or as subject of discrimination, but rather provides a basal level playing field. The Charter thus calls for reflection on the value of a minimally detailed and open model of coexistence versus models of concrete stipulations and mechanisms.

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Extract Charter on religious tolerance

Roger Williams and the foundation of Rhode Island, a haven of toleration in the seventeenth century

Roger Williams and society as a ship

Roger Williams and The Wall of Separation

Anne Hutchinson

Mary Dyer and the Quakers in New England

Declaration of the Rights of Man and of the Citizen

Basic Facts

- Involved parties: The French National Assembly
- Date: 1789
- Place: The kingdom of France
- Applies to: French Citizens
- Main outcomes: A general set of rights for individual citizens. The Declaration abolished the old order in which people's rights were dependent upon the estate of which they were member and the confession they adhered. In the sphere of religion, the Declaration establishes freedom of opinion, also in the religious sphere. It considers the protection of the public order by the law as the main limit on such freedom. This regulation implied the abolishing of a preferred confession in France (up to then Catholicism) and provided freedom of opinion to discriminated groups such as Protestants and Jews. The Declaration is also considered to be a first step towards the model of a neutral state that considers religion as a private matter.

Context

From the late seventeenth century onwards, Catholicism was the only allowed religion in the kingdom of France. After the religious wars of the late sixteenth century, the Edict of Nantes had provided a regime of tolerance for Protestants in France. With the Edict of Fontainebleau (1685), King Louis XIV had revoked the rights of Protestants in his kingdom. French Protestants had to either convert to Catholicism, or sell their possessions and migrate. Many chose the latter option. After this repression in the late seventeenth century, the successors of Louis XIV began to take a more tolerant stance again in the eighteenth century and implicitly accepted the presence of Protestants in France. Two French regions hosted a Jewish community that was also implicitly tolerated. In the region around Bordeaux, a community of Sephardic Jews had been allowed to settle under the conditions that they pretended to be Catholics. In the North-Western regions of Alsace and Lorraine, which had been conquered from the Holy Roman Empire, a small Jewish community lived as well. Within the Catholic Church, the theological line of Jansenism gained a strong foothold in France. This doctrine had a pessimist understanding of the possibility of salvation, and the movement also became a critical force against Royal authority. Both the Catholic Church and the French monarchy oppressed this doctrine and its adherents. In 1787, French King Louis XVI issued the Edict of Versailles. This legislation gave non-Catholics in the kingdom the right to worship publicly. However, in various fields such as education, non-Catholics were officially discriminated.

Throughout the seventeenth and eighteenth century, French monarchs had sought to increase royal authority. The Edict of Fontainebleau had been part of that strategy. The French monarchy also sought to expand its territory through warfare. This had been a very costly effort which had strongly burdened the French state finances. By 1789, this had led to the bankruptcy of the French monarchy. Initially, the king and his ministers had designed a

plan to remedy the crisis, which was blocked by the Parliament of Paris, the highest court in the kingdom. This forced the King to convene the Estates-General for the first time since 1614. The Estates were a representative body organised into three groups, in accordance with the organisation of pre-modern society. The first estate consisted out of the clergy. Bishops, which all were sons of noble families, dominated this group. The second estate consisted out of the nobility. This was a small group that held numerous legal privileges and was largely free from taxation. The third estate consisted of all others, from well off merchants to poor farmers.

As the convocations of the Estates had not happened for more than a century, this was considered as a very uncommon event. The delegates were not accustomed to holding such meetings. The third estate in particular resisted the format of meeting and of voting per estate. As the complaints of the third estate were not met, it began to meet separately and invited members of the other estates to join them in a single representative body. Initially both the other estates and the king strongly resisted this move, but afterwards this new representative body was approved and recognized as the “national assembly”. This new assembly saw it as a key task to draft a constitution for France. Throughout the summer of 1789, the assembly debated on this matter. It approved a document on 26 august 1789 entitled the Declaration of the Rights of Man and of the Citizen.

The Declaration was not merely a response to the fiscal and the institutional crisis in France. Throughout the eighteenth century, various ideas had developed that influenced the members of the assembly in 1789. In North America, a group of British colonies had begun to oppose the policy of the government in London. These colonies succeeded in gaining independence and formed a new republic, the United States of America. After their declaration of independence (1776), the United States drafted and ratified a constitution in 1788-1789. This document contained various limits on government and set up a system of representative government. The Kingdom of France had materially supported the rebellion of the American states against Great Britain, and the ideas developed in North America were followed in France. Also in Europe, new conceptions of rights and individuality had developed in the decades prior to 1789. Various “Enlightened” philosophers such as Montesquieu published new visions about law. Besides this elaborate and scholarly reflections, new ideas also found their way in a variety of popular fictions books. Through these publications, new understandings about individual autonomy and emotions were spread among a wide public.

Key Aspects (Comparative)

The Declaration of the Rights of Man and of the Citizen is a constitutional document. It was the result of a fiscal, political and institutional crisis in France. Although religious issues such as the rights of Protestants and Jews were part of the debates, they were not the primary concerns. Unlike other French treaties, such as the Edict of Saint-Germain and the Edict of Nantes, the Declaration thus was not a response to a concrete conflict that was settled through a religious peace. Given the different conception of the Declaration, it was a much shorter text than these early modern ‘religious peace treaties’. Such treaties outlined very detailed and concrete regulations to settle and pacify various aspect of a conflict. The Declaration outlined a set of general principles. Article 10 touches upon religion: “No one may

be disturbed for his opinions, even religious ones, provided that their manifestation does not trouble the public order established by the law."

The Declaration was a document that fundamentally changed the legal order of France. Up to 1789, France was society that was deliberately organized as unequal. People who adhered to another confession than Catholicism (Protestants, Jews) had lesser rights and were deliberately treated secondary citizens. Besides religion, also inherited noble titles came with legal and fiscal privileges. Treaties such as the Religionsvrede in the Low Countries, the peace of Augsburg, the Edict of Saint-Germain and the Edict of Nantes also arranged religious relations and rights according to these principles. Religious confessions held concretely described, often narrow rights in these treaties.

The Declaration did not specify any specific religion, but generally described the rights not be disturbed about opinions, among which also religious opinions. Besides this general formula in the Declaration, the French National Assembly also began to take more concrete measures related to religion. In January 1790 the Assembly also explicitly emancipated Jews as full citizens. In autumn 1789, property of the Catholic Church was seized. In the summer of 1790, the Assembly abolished regular and secular religious orders and required that Catholic Clergy took an oath of loyalty to France. Although such legislation in many aspects was a fundamental rupture, it also contained a continuity with previous French policies, in that the rights and limits of religious individuals and institutions were top-down regulated by the government.

The approach of the Declaration is one of individual rights as citizen. Its text refers to the rights of "any men" and "All the citizens". Although political associations are mentioned in article II, the primary levels to which the declared rights relate are those of the individual man and citizen on the one hand, and the whole of society on the other hand. The declaration had universalist aspirations, and through the French conquest of large parts of Europe in the following decades its principles were spread. However, the references to "man" and "the citizen" also were interpreted as limits. One of the most pressing questions was whether women were also provided rights through the Declaration. Writer Olympe de Gouges brought this challenging question to the public debate in her pamphlet "Declaration of the Rights of Woman and the Female Citizen".

Contemporary Relevance

The Declaration of the Rights of Man and of the Citizen is relevant for our age, as it is one of the key examples of a constitutional document that puts a state in a neutral position towards religious denominations. It does not recognize any religion as privileged or contrary as illegal. By including a clause on the primacy of public order established by the law, the declaration places all forms of religion under the rule of the state. Variations of this model have affected the constitutional order of many continental European states in the nineteenth and twentieth century up to today. Many of these do not have a privileged state religion but have a constitutional order in which the government adopts a neutral stance towards all religious denominations. Others adopt such a neutral stance but also issue state recognition to various denominations.

The Declaration also primarily discussed religious freedom as individual freedom. It guarantees religious freedom by protection the rights of individual citizens to hold opinions that are considered not to break the law. Religious institutions and organizations are not discussed in the Declaration. This approach of religion as an individual and private matter and the question of how states should deal with religious institutions and organisations would become an important point of debate and tension in Europe ever since the nineteenth century. In France, it led to a law issued in 1905 that separated state and church. This legislation is still in force. The policy of considering religion as an individual and private matter is called "laicité" or "secularism". Contemporary debates about whether individuals have the right to dress according to religious prescriptions or follow dietary restrictions based on such prescriptions are often interpreted through the lens of "laicité". The Declaration thus may inspire relfections whether the model of the neutral state is preferable and feasible.

The Declaration of the Rights of Man and of the Citizen also calls for reflections on the relation between religion and human rights. Especially in the second half of the twentieth century, universal human rights have gained importance in the legal order. Sometimes the history of such universal rights is considered as liberal, linear and western, starting from medieval and early modern documents and then moving into the modern age with the Declaration of the Rights of Man and of the Citizen. However, this linear and western interpretation is criticised by pointing to the role of non-western ideas and actors that affected the rise of universal human rights and by questioning the linear evolution. These debates invite for reflection upon the national and universal aspects of the Declaration. More broadly, they bring up the question whether religious rights can and should be arranged through universal or general claims and rights, or whether concrete national or local legislation or arrangements offer a better model for peacefully living together.

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- Declaration of the Rights of Man and the Citizen
- Declaration of the Rights of Man and of the Citizen: French laïcité
- Declaration of Rights: Burke and tolerance
- Declaration: declaring human rights
- Representation of the Declaration of the Rights of Man and of the Citizen
- Jews in France
- Notre Dame and the cult of reason
- Article 10: the right not to be disturbed for religious opinions
- Olympe de Gouges and the rights of women
- The French Revolution and the Church

First Amendment to the U.S. Constitution

Basic Facts

- Involved parties: James Madison; U.S. Congress; Federal and State Governments of the U.S.; U.S. Supreme Court.
- Date: 1789.
- Place: New York City
- Applies to: U.S. citizens.
- Main outcomes: For United States citizens, the First Amendment to the U.S. Constitution forms the basis of their freedom of religion, freedom of speech, right to assemble, and right to seek redress of grievances from the government. Although the amendment itself is very short, the debate about it has been lengthy and involved virtually all layers of American society. The impact of the amendment has therefore been profound, both with regard to the exercise of individual rights by citizens and to the actions of the Federal and State Governments. Moreover, through the (gradual) global spread of American influence, power and popular culture, the U.S. definition of these freedoms has gained weight far beyond North America.

Context

In the late Eighteenth century, the formation of the United States of America was in full swing. In 1775 the American Revolution broke out, pitting thirteen British colonies on the east coast of North America against their mother country. At first, the secessionist colonies governed themselves through a Continental Congress, which allowed them to join forces in their opposition to Great Britain. Between 1776 and 1777 this Congress drafted a first constitutional document, called the Articles of Confederation and Perpetual Union. All thirteen colonies accepted this document by 1781, handing limited central power to the Confederation Congress.

In 1783 the British formally recognized the independence of the United States. Although this was a major victory for the thirteen former colonies, the Articles of Confederation quickly proved to be insufficient to maintain a functioning central government. Some States accused others of not paying their share in the confederal budget, while still other States faced internal and external threats but could not be helped by the Confederation government. Given the fact that this dangerous instability was deemed to originate from the faulty decisions of 1777, Congress called in 1787 for a special meeting to revise the Articles of Confederation.

This Constitutional Convention formally started working on 25 May 1787, amidst a generally shared sentiment that the central government needed to be reinforced compared to the designs of a decade earlier. A draft constitution was ready by September, although the text was a compromise that disappointed many of the State delegates. Still, about one year later eleven of the States had ratified the Constitution, putting a new federal organization into place. By 1790 the last two holdout States, North Carolina and Rhode Island, also ratified the 1787 Constitution.

Yet, the unhappiness about how the Constitutional Convention had ended continued to linger. During the ratification process so-called Anti-Federalists opposed the new organization of government and wished to see it changed. One of the main worries of the Anti-Federalists was that the new Constitution made government to powerful compared to individual citizens. Given the fact that the United States had fought their Revolution against a British King who had supposedly usurped his powers to the detriment of his American subjects, the protection of individual rights was a particularly powerful argument. Opposed to them stood the Federalists, who defended the new Constitution with the argument that no further protection of individual rights was needed, especially because the States could still separately decide to offer additional guarantees to their inhabitants.

The tensions between Federalists and Anti-Federalists proved to be particularly problematic in the State of Massachusetts, where fierce debates prevented the ratification of the new Constitution. The deadlock could only be broken after John Hancock and Samuel Adams, two important figures of the American Revolution and leading Anti-Federalists, reached a compromise with the Massachusetts Federalists. In return for the ratification of the Constitution, the original document would be amended by State legislators. Following this example, several other States also shifted their position to one whereby they agreed to ratify the Constitution but immediately proposed amendments to it.

The search for amendments by individual States created the risk that a second Constitutional Convention would be needed to agree on all of the proposed changes. This, in turn, threatened to disrupt the compromises reached during the initial Convention of 1787. In order to pre-empt and avoid such a second constitutional meeting, the U.S. Congress took the lead in working towards a so-called Bill of Rights, which would offer greater guarantees for individual citizens.

The Congressman at the forefront of this effort was James Madison from Virginia, who had been elected with a promise to introduce amendments to the Constitution when in Congress. The Bill of Rights he submitted to Congress in 1789 drew inspiration from a number of sources. Historically speaking it related back to the English Magna Carta of 1215 and the English Bill of Rights of 1689. Other elements were drawn from existing State Constitutions or other documents created by State legislators.

The U.S. Congress, which at the time gathered in New York, went through a laborious process of re- writing Madison's initial proposal, with the House of Representatives and the Senate drafting two different versions. This also applied to the first amendment, which in this phase existed in three forms: the one written by Madison, which focussed on religion; the one drafted by the House, which added freedom of speech, freedom of the press, right to assemble and right to seek redress of grievances; and one drafted by the Senate, which reformulated the part on religion.

Eventually, on 25 September 1789, the House and Senate agreed on a definitive version of the Bill of Rights to be sent to the States for ratification. By the end of 1791 the Bill of Rights was ratified by the required number of States to take effect. The First Amendment, actually the third Article of the Bill, now read as follows:

> *"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the*

people peaceably to assemble, and to petition the Government for a redress of grievances".

However, the Bill, including the First Amendment, were considered to be 'dormant' elements of the Constitution up until the American Civil War of 1861-1865. It was only after the Civil War that the Bill of Rights became a key legal element, a change that largely stemmed from the Fourteenth Amendment to the U.S. Constitution, signed in the wake of the Civil War. This amendment also protected individual rights, making this type of legal protection more important than before. For example, the Supreme Court of the United States now increasingly ruled that the protections of the Bill of Rights also protected citizens against State Governments, whereas before the common agreement was that it only protected them against the Federal Government.

The Fourteenth amendment therefore started a process called 'incorporation', whereby Constitutional rules that previously only applied at the Federal level gradually became applicable to the States as well. Still, it was only in 1940 that the U.S. Supreme Court decided that the free exercise of religion should also be guaranteed by State Governments; the clause that prevented the Federal Government from establishing (i.e. promoting or supporting) a religion started to apply to the individual States in 1947.

Especially in the 20th century the First Amendment has become subject to critical legal debates about the rights and freedoms of U.S. citizens. It is quite impossible to offer an overview of all the relevant Supreme Court cases and decisions, but it is important to note that especially the legal rulings on the so- called 'free exercise clause' – which allows individuals to freely exercise their religion – have had a direct impact on the public appearance of religion in the United States. The clause, and its interpretation, have to a large extent determined what the position and role of individual beliefs is in public life. So whereas the 'establishment clause' – that part of the First Amendment that forbids governments from organizing a formal state religion – is mainly one regarding governmental organization and taxation, the free exercise clause directly affects individual religious believers in the United States.

Key Aspects (Comparative)

A first aspect to highlight about the First Amendment is its constitutional nature. This puts in a different category from many of the treaties and documents part of the RETOPEA framework, because it was explicitly drafted to establish the rules for a functioning government and to protect individual rights of

U.S. citizens. This is an important element to stress because all RETOPEA documents can be considered 'foundational' in one way or another, but not all of them are 'constitutional' in the same vein as the First Amendment.

The clearest illustration of this is the comparison with the so-called Constitution of Medina. This document from 622, or actually series of documents, was a 'bilateral' agreement between the Prophet Muhammed and his followers and the different tribes of Medina. So whereas the U.S. Constitution was a text that really aimed to establish a shared government for the former British colonies in North America, the Medina Constitution had no such unifying aims – it kept the power structures of the different groups in Medina largely separate and merely sought to establish a *modus vivendi* between those groups. Similarly, the Bill of Rights

established clear individual rights for each U.S. Citizen, regardless of their State, but the Medina Constitution mainly determined the 'group rights' of the different tribes involved. The rights of the inhabitants of Medina depended on which group they belonged to, not on their identity as inhabitants of Medina.

The First Amendment is also very different from the 'unilateral' legislative acts included in RETOPEA such as the Pact of Umar (7th century), Akbar's legislation (16Th century), the Edict of Nantes (16th century), the Charter of Rhode Island (17th century) or the Sultan's decree (19th century). All of these documents were acts of a sovereign power (or its representative) towards subject groups. Those groups might have had some say in the decision of the sovereign and the content of the document, but the parties involved were never considered equal. In contrast, the thirteen U.S. States that drafted the Constitution and the Bill of Rights were, theoretically at least, equal in determining and agreeing to the content of the First Amendment. This makes the First Amendment much more 'bottom-up' than the many 'top-down' legislative acts discussed elsewhere.

The U.S. Constitution and the Bill of Rights in fact reflect more the multilateral international agreements included in RETOPEA. The starting point for the Constitution, the Bill and the Amendment was indeed a negotiation between different political entities, i.e. the thirteen former colonies, and both the Constitution and Bill were clear compromises between partners that had earlier agreed to cooperate. The depth and longevity of the compromise and the level of cooperation established by the U.S. Constitution are of course much greater than that of, for example, the Vienna Congress (19Th century), the League of Nations Minority Protection (20th century), the European Convention on Human Rights (20th century), and the EU Charter of Fundamental Rights (21ST century). Yet, the fact that the Constitution created a truly Federal Government should not obscure that the lasting union of the thirteen colonies was a natural given. The Constitution and Bill of Rights were not established by a pre-existing unitary nation-stated, but rather bound previously independent territories together in such a union, comparable to how present- day independent states agree to be bound by international agreements and frameworks.

Zooming in on those international treaties, the Peace of Westphalia (17th century), the Congress of Vienna (19th century) and the Paris Peace Treaties (20th) are interesting points of comparison. Westphalia offered a territorial rearrangement of the Holy Roman Empire and confirmed, changed or established some of the principles on the basis of which this German territory was governed. It has therefore often been called a constitutional document, but this a tricky term. The Peace of Westphalia was never considered constitutional at the time and did not create a nation-state on broadly modern terms – things which both apply to the U.S. Constitution. In contrast, the Congress of Vienna did lead to the creation of several new nation-states and prompted several of them to adopt constitutions – sometimes even drawing inspiration from the United States. The same applies to the Paris Peace Treaties, but both in the Vienna and Paris cases, the territorial changes and new constitutions fit in a broadly conservative and restorative effort, with the international context predetermining a lot of the possible outcomes. Again, the U.S. Constitution stands out as more of a bottom-up text than either of the mentioned conferences, without this meaning that it was drafted by the 'general public' – on the contrary, the Constitution and Bill are also based on the visions of an elite class.

Specifically with regard to the religious provisions of the First Amendment, the 'free exercise clause' awards an important religious right to individuals. This aspect creates a connection with documents such as the Declaration of the Rights of Man and of the Citizen (18th century), the European Convention on Human Rights (20th century), and the EU Charter of Fundamental Rights (21ST century). But it also connects to much earlier documents that are not an explicit part of RETOPEA. One is the English Magna Carta of 1215, which is seen as the basis of many English individual rights. The others are a range of individual rights awarded to English subjects through the course of the 17th century. This focus on Individual rights places the First Amendment in a long tradition of thinking, writing and legislation about such rights, from the 17th century to today.

The 'establishment clause' fits in an even longer 'tradition', in the sense that it deals with the role of government in dealing with religion. The bond between religion and government is one debated through the ages in many different cultures, with many different ideas, options and decisions found in the RETOPEA clippings. The most remarkable comparative aspect of the 'establishment clause' is that it aims to keep religion and government separate, whereas most other documents dealing with this relation go the opposite way, awarding government the right to interfere in religious matters or starting from the basic position that the government has such a right.

Contemporary Relevance

The contemporary relevance of the First Amendment to the U.S. Constitution is first and foremost that the Amendment is still in vogue and applies to all U.S. citizens. Drafted in 1789, it is a piece of legislation that is still referred to by all sorts of people and groups in the United States. Starting in the late 19th century, people from all walks of lives and all sorts of religious backgrounds petitioned the U.S. Supreme Court to determine how and when the Amendment should protect their individual religious rights. This direct appeal to the First Amendment in legal cases makes it a highly relevant and impactful text for religious and non-religious Americans alike.

Based on this immediate relevance, the First Amendment sparked a major debate about the role of religion in the United States, a debate that continues to this day. This debate involves both the individual rights captured by the 'free exercise clause' and the role of government settled by the 'establishment clause'. The debate is waged by lawyers, judges and legal scholars, but also by religious groups and individual believers who associate different values and practices with the First Amendment.

The fact that this debate still lingers has much to do with the fact that the U.S. Constitution, even with the later amendments, failed to bridge some of the most important divisions in the country. Following the controversies between Federalists and Anti-Federalists there still remained (and remain) groups who favoured more or less government intervention in State politics and in the lives of Individuals. Even the American Civil War found part of its origin in these divisions. Proponents of more and less government intervention can also be found when it comes to matters of religion, with certain groups claiming an absolute right to religious independence. Sometimes this claim to freedom is used to promote quite extreme

points of view, including the freedom to discriminate against other walks of life or the freedom to impose certain laws based on religious principles.

This focus on government intervention in religious freedom sometimes focusses on matters such as the taxation of religious institutions, but also connects to the debate about religious terrorism. Many proponents of maximal religious liberty and minimal governmental intervention fiercely defend the absolute right to freedom for Christian or Jewish religious groups, but when it comes to Islam they take another perspective. Due to the 9/11 terrorist attacks, government control of Muslims is much more widely accepted than the monitoring of other religions, making it much harder for the government to strike a balance between the principle of freedom of religion and protection of the state.

A final point of contemporary relevance of the First Amendment is that some principles of the American Constitution have inspired European Constitutions, both in the 19th and 20th century, but also the constitutions of the post-colonial states elsewhere in the world. The degree of influence varies from case to case and is never exclusive (other traditions than the American matter also for constitutions worldwide), but the First Amendment remains a global point of reference.

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Clippings

- A famous addition
- One sentence protecting freedom of religion
- Protecting religions equally
- Build that wall?
- Public provocations
- Religion on the job
- The First Amendment at school
- Freedom vs. Freedom
- Religious freedom and Harry Potter
- Clothes and the First Amendment
- Putting yourself in prison for religion

Vienna Congress

Basic Facts

- Involved parties: Representatives from almost all European states and territories, primarily Britain, Russia, Prussia, Austria and France.
- Date: 1814-1815.
- Place: Vienna.
- Applies to: Basically the entire European continent.
- Main outcomes: The Vienna Congress first and foremost entailed a territorial reorganization of Europe, undoing the territorial reorganization earlier orchestrated by Napoleon Bonaparte. The primary aim of the Congress was to restore the damage done by Revolutionary France, even though a full restoration to the pre-Napoleonic period was never in reach. Secondly, and similarly, the Congress wanted to return to a pre-republican political system, but some of the principles of the French Revolution had gained such a foothold that the Congress had to take them into account, making them a firmer part of European political (and religious life). This included the granting of individual rights to citizens and the (potential) expansion of those rights to religious minorities such as the Jews. The Congress also established a new balance of power in Europe, often called 'the concert of Europe', which consisted of several new alliances between the major European States to keep things peaceful in Europe. Effectively, the Vienna system would largely keep the peace until the mid-nineteenth century, and would remain the basis of international politics until at least the start of the first World War.

Context

The Congress of Vienna was a gathering of Europe's foremost ambassadors, who were tasked with creating a new political balance for Europe following the Napoleonic Wars. The meeting followed immediately after the first defeat of Napoleon and the surrender of Imperial France in May 1814. Although Napoleon did return during a '100 days campaign' in 1815, this did not upset the overall functioning of the Congress. Napoleon was definitively defeated at the battle of Waterloo in June 1815, whilst the final act of the Vienna Congress had already been signed 9 days prior.

The main participants in the Vienna Congress were the members of the coalition that had fought against Napoleon, spearheaded by Britain, Prussia, Austria and Russia. In the Treaty of Paris, which had been concluded on 30 May 1814, the members of this coalition had agreed to restore the Bourbon dynasty as Kings of France (with King Louis XVIII replacing Emperor Napoleon), in return for which the Bourbons accepted that France would give up all the territories it had conquered since 1792. As the Paris peace was a rough settlement that could not deal with all matters that warranted attention, article 32 of the Treaty provisioned that all the parties involved in the war would send 'plenipotaries' (meaning formal ambassadors with full royal authority) to Vienna in order to draft a more detailed peace arrangement.

As a result, ambassadors from many different nations and territories found their way to Vienna in the following months, jointly working towards a final settlement. The most important ambassadors were those of Austria (the Prince of Metternich), Britain (the Viscount Castlereagh and later the Duke of Wellington), Russia (Count Nesselrode), Prussia (Prince Hardenberg and Wilhelm von Humboldt), and Bourbon France (the foreign minister Talleyrand). Although these are by now household names in the history of the nineteenth century, it should be noted that there were hundreds of other states and territories represented in Vienna, making this a truly pan-European diplomatic meeting, whereby virtually every polity that could send a delegation effectively did so.

The negotiations at the Congress assumed a fairly unstructured form. The abovementioned negotiators of Russia, Prussia, Austria, Britain and France formed the centre of the deliberations, meeting in multilateral, bilateral, and frequently informal settings to discuss the future of Europe. This open form of deliberation created opportunities for other parties to insert their point of view, petitioning the main actors when they were in session, meeting them on various cultural and social occasions, or trying to exert pressure on them through the press. Important in this respect was that the Tsar of Russia, the King of Prussia and the Austrian emperor were also present in Vienna, meaning that their plenipotaries had to take their royal's point of view into account. Moreover, the presence of key royals gave additional weight to the meetings and results of the Congress.

The presence of so many Emperors, Kings, nobles and diplomats indeed turned the Congress of Vienna into the singly-most important high-society event of the period. Several of the delegations frequently organized social, cultural and religious events to celebrate the victory over Napoleon. Members of the delegations and the people surrounding them also met at the parties thrown by some of the non-diplomats present in Vienna, or they met each other for leisurely activities in the 'salons' of important figures. Given all of these high-society activities, it became a famous expression to say that the 'congress dances', based on the contemporary remark that "the congress does not go forward, it dances".

Given the fact that the plenipotaries and their rulers could meet so often and in such good circumstances (they were after all victors of the Napoleonic Wars, even the restored Bourbon monarchy), the atmosphere at the Congress was generally positive and constructive, with the results enjoying a broad legitimacy amongst Europe's rulers (but not necessarily amongst their populations). All of the main parties also shared the same objective: to prevent the return of Republicanism, which threatened all crowned heads in Europe, and to restore the 'balance of power' in Europe. This last element was deemed necessary to prevent one of the five main powers from dominating the other four, as France had done under Napoleon. The resulting system of high-level diplomacy, formal alliances between the major powers, and anti-republicanism became the bedrock of what became known as the 'Concert of Europe' – basically a system of diplomatic coordination and relatively close personal relations that would prevent major war in Europe until at least 1848, possibly even 1914. This is not to say that either the Congress or the Concert were free from serious tensions and dangerous moments, but the stability achieved still contrasted sharply with the Napoleonic period.

At the congress, religion was mainly present because the territorial reorganization of Europe shifted the position of many pre-war religious minorities or, in other cases, created new minorities by transferring lands between rulers and states. For example, in the newly created

United Kingdom of the Netherlands, the previously dominant Protestants (in the north) and Catholics (in the south) were now unified under one Protestant ruler. The new Constitution of 1815 tried to mitigate this situation by extending freedom of religion to the citizens of the new Kingdom, but several southern Catholics resented this arrangement and rejected the Constitution. Despite this protest and the lack of agreement in the south, King William nevertheless deemed the Constitution, including its religious arrangements, as ratified and thus valid.

Similar arrangements were necessary in many other European states and territories. The creation of the new German Confederation was accompanied by the drafting and ratification of a German Constitution; the same applied to the Kingdom of Poland. In other territories the merging or dividing of lands and people was accompanied by specific articles or laws concerning the rights of religious minorities. One specific case in this respect was the position of the Jews, who in many regions had been emancipated by Napoleon. If it was one matter to grand equal rights of citizenship to groups of different Christian religions, it was another to extend these rights to non-Christians as well. Especially in the German case there was fierce discussion about the rights Jews would have within the German Confederation.

Key Aspects (Comparative)

In comparative view, two main elements should be noted. Firstly, it should be stressed that the Congress of Vienna was one of the major post-war peace conferences organized throughout the ages in Europe. In this respect the Congress stands on par with the meetings in Western Germany that led to the Peace of Westphalia in 1648 and the Paris Peace Conference following WWI. However, it should be noted that the Westphalian settlement was mainly arranged in a context of total exhaustion of all parties involved; the Vienna Congress was a conference of the victors with ample room for and input of the 'defeated' French party; and the Versailles conference was a conference meeting in which the losing side was severely punished, partly a cause of the second World War. This highly diplomatic nature of the Congress of Vienna also connects the meeting to later diplomatic endeavours, such as the League of Nations and the United Nations, which are sometimes identified as the successors to the Concert of Europe.

Secondly, and as a related matter, in all three cases the peace was built upon major territorial changes in Europe, accompanied by a desire to return to the pre-war political order but the *de facto* inclusion of new political systems and principles. Even though this was desired by many of those who participated in these conferences, an all-out return to the situation before the war was impossible. In this sense, the Vienna Congress, as well as Westphalian and Paris meetings, structurally anchored significant new developments whilst having broadly restorative ambitions.

For the Vienna Congress, this inclusion of new elements can be related to the firmer inclusion of individual rights in the European political system. As highlighted above, these individual rights often found their expression in newly drafted constitutions. Within the RETOPEA-framework this creates an obvious link with the US Constitution and even with the Constitution of Medina – even though the later was situated in a tribal context and not in nation- or state-based world. Moreover, the individual rights discussed and/or granted to people sometimes

related to the principle of freedom of religion, which offers a connection to the Declaration of the Rights of Man and of the Citizen (1789); the League of Nations Minority Protection (1919); The European Convention on Human Rights (1950) and the EU Charter of Fundamental Rights (2009).

Contemporary Relevance

The primary contemporary relevance of the Vienna Congress is also situated in its connection to Constitutional and individual (religious) rights. With regard to the former, the French Revolution had brutally started the move away from absolute monarchy in European politics, but the Vienna Congress firmly enshrined the attention to constitutional principles in European affairs, despite the largely restorative and anti-republican aims of the delegates present in Vienna. The constitutions drafted as a part of the Congress indeed became leading documents for later constitutional developments in the states where they applied, whereas in countries where the Congress did not install a constitutional regime, the demand for such a document quickly became a matter of high interest (and concern) for rulers. Discussions about constitutionalism today should thus take this crucial moment into account, as 'constitutionalism' in a modern European sense relates both to the examples of the United States and of the Congress of Vienna.

In the same vein it can be argued that discussions about the political and legal position of minorities was given a new direction by the Napoleonic Wars and the Congress of Vienna. These discussions took no longer place through principles associated with absolute rule (i.e. that a ruler grants a certain right to a group or person, almost as a benevolent gift), but increasingly connected to the mentioned principles associated with citizenship and the protection of individual rights. Comparable to the idea of constitutional regimes, minority protection and individual religious freedom in contemporary Europe are intricately connected to the formative discussion held at or around the Vienna Congress.

Thirdly, the Congress of Vienna had and still has a tremendous influence on how international politics are (supposed to be) organized. The Congress was one of the key moments in the history of international diplomacy, meaning that many current politicians and scholars still consider it to be one of the most important examples for aspiring diplomats and statesmen. One prime case of this is Henry Kissinger, former US Secretary of State and an influential thinker on international relations, who wrote his doctoral dissertation about the Congress of Vienna and considered it to be the 'true' start of the modern era. Figures such as Talleyrand, Castlereagh, Nesselrode and Metternich have indeed assumed an almost mythical status amongst some world leaders and students of international relations, comparable to how the Concert of Europe has become somewhat of an ideal for how to organize peaceful relations on the European continent. In a certain sense, this laudatory view of the Congress overlooks its mentioned restorative ambition, whereby in several parts of Europe absolute monarchical rule was (temporarily) restored.

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Clippings

A congress reshaping Europe

Freedom of religion or freedom to discriminate?

Religions dancing

Welcome to the salon

Converting your friends

The invisible church

Fanny hosts the salon

The German Constitution on tolerance

Lower taxes, more tolerance

The League of Nations and the minorities treaties

Basic Facts

- Involved parties: Allied and Central powers, new states in Eastern Europe
- Date: 1919-1922
- Main outcomes:
    - Preventing future wars
    - Establishing a system of collective security
    - Minority protection system
    - Population exchanges

Context

After WW I a new European and international order was established through a series of peace treaties as well as the creation of the League of Nations. The Paris Peace Treaties – actually a series of treaties between the victorious Allied Powers and the defeated Central Powers aimed at setting peace terms between the warring sides of the First World War, most of them held in and around Paris in 1919-1920 – established the actual conditions for peace; the League of Nations, founded on 10 January 1920 by the Paris Peace Conference, was the first true international organization with a stated aim to prevent another world war. It understood the latter ambition in broad terms: The organization not only attempted to settle international disputes and military rivalries, but was also involved in areas such as health, intellectual property rights and standardization matters.

In contrast to the Congress of Vienna, which had rested the new European order on dynastic legitimacy, fixed borders, common principles and diplomatic interactions, the Paris Peace system imagined the new order on the basis of nation-states and population policies, albeit limited by realpolitik and revenge by the victorious European powers. Their perspective resulted in a particularly harsh treatment of the defeated Central powers which arguably fatally undermined the desired pacification. It also led to inconsistent application of the claimed principles, although these turned out illusionary anyway. The territorial decisions included the dissolution of the Austrian-Hungarian and Ottoman empire as well as the creation of a series of new states in Eastern Europe. The political map of Europe also changed because of the disintegration of the former Russian Empire and the formation of the Soviet Union, which formally renounced its claims to Western territories occupied by the Russian Empire (the Baltic states, Poland, Belarus, Ukraine, Georgia, …). Soviet Russia and the Central Powers concluded a separate treaty in Brest-Litovsk in 1918 and was not directly involved in the Paris peace negotiations; it was not recognized as member of the League of Nations either.

Key Aspects (Comparative)

The main principle of the new order was that of self-determination of peoples, an ideal associated with the American President Wilson but also, more radically, proposed by the

Soviet leader Vladimir Lenin – which led to the independence of former Russian occupied states – and the Turkish nationalist Kemal Ataturk. Both Lenin and Ataturk proclaimed self-determination for all people anywhere in the world (i.e. also colonized), in contrast to the American president who saw in it only a concept to give a political voice to Eastern European people of the former Ottoman Empire. The basic principles of the new order had been around already since the mid nineteenth century and impacted international politics particularly since the Congress of Berlin in 1878, when ethnicity became recognized as the basis of statehood.

Ethnicity, or nationhood, had become the central category of collective identification in the nineteenth century, along with race, although race and ethnicity in Europe were still often conflated. While it is often argued that ethnicity eclipsed religion as defining identity, that is not entirely true. In fact, as the Turkish historian Selim Deringil (2012) argued, religion and ethnicity reinforced each other (perhaps especially in Southeastern Europe), though it is fair to say that religion became 'ethnicized'. That did not make it less salient, but made boundaries more firm: while changing religion was always possible, changing nation became treason – changing race, as especially Jews would experience in the next century, would then be impossible.

As ethnicity became the cornerstone of statehood, the latter became imagined as ideally homogenous. John Stuart Mill most famously expressed the idea in 1861 when he wrote that "free institutions are next to impossible in a country made up by different nationalities".[5] This gave way to a new narrative that opposed the national majority to 'minorities' which per definition were considered a liability, especially as – what mostly was the case – they could be associated with another ethnic or religious group elsewhere, either as a dominant nation or majority in another state (as for example Germans living in other states) or belonging to a 'transnational nation' without a proper state of their own, as were Jews. In the later third of the nineteenth century two legitimate and one 'illegitimate' (but still pursued) strategies emerged to increase ethnic and religious homogeneity: (1) voluntary or (mostly) unvoluntary emigration or expulsion; (2) assimilation, which with regard to non-European people was called 'civilizing' (as in the 'civilizing mission'); and (3) the 'illegitimate' strategy being mass murder and genocide. But in parallel the idea emerged that those ethnicities that remained or were allowed to reside in a state dominated by another 'majority', were entitled to protection, albeit that the expectation was that they eventually they would assimilate – it is the communities that were considered un-assimilable, because they were too large or culturally 'too different' that had to be expelled or purged.

The post-WW I peace treaties adopted the two legitimate strategies, on the one hand by organizing forced 'population exchanges' and on the other hand by imposing 'minority rights' upon the newly established states in Eastern Europe (but not upon the 'old' western European states, in part for pragmatic reasons, in part also because the Eastern European countries were considered less civilized). Hence, in the words of the historian Mark Mazower, the "Paris Peace Conference gave sixty million people a state of their own for the first time in history, but turned another twenty-five million into minorities".[6] The Treaty of Lausanne, which finally (after a first agreement had failed) settled the conflict between the Ottoman Empire – which

[5] John Stuart Mill, *Considerations on Representative Government*], London, 1861, [Chapter 16: "Of Nationality, as connected with Representative Government"].

[6] Mark Mazower, *The Dark Continent: Europe's Twentieth Century*, New York: Vintage Books, 2000, 4.

was 'partitioned' and became a republic in 1922 – and the Allied forces, however also provided for amnesty for the Ottoman-Turkish politics of ethnic cleansing and genocide against Armenians, Greeks and Assyrians in Anatolia. By so doing, the conference actually as historian Hans-Lukas Kieser observes, "tacitly endorsed comprehensive policies of expulsion and extermination of hetero-ethnic and hetero-religious groups" as a real format of demographic engineering.[7]

Nevertheless, the minorities treaties at least on paper gave political and civil rights to people belonging to these minorities and promised them protection against discrimination. They explicitly demanded that all "nationals" would enjoy the same civil and political rights "without distinction as to race, language or religion".[8] Such guaranties were also demanded by the European Jewish communities, who lived scattered around European states, especially in Central and Eastern Europe, but still often experienced discrimination and persecution, which due to the new ideas about national homogeneity increased again. The Committee of Jewish Delegations explicitly demanded a special grant to their national, religious, ethnic and linguistic rights. More precisely, the Committee demanded (1) civil, religious and political freedom for the individuals, (2) freedom of association and (3) equality between the individuals and the national minorities. A proposal by President Wilson to make the freedom of religion a general obligation failed though. One of the reasons was that Japan wanted to broaden the application and demanded equality, also between races. That, however, was unacceptable, even unconceivable, for the European imperial powers as well as for the US.

Between 1919 and 1923 a total number of 16 minority treaties, special chapters in the general treaties of peace, special chapters in other treaties and declarations made before the League of Nations Council, were signed with the newly created post-war states (Poland, Kingdom of Serbs, Croats and Slovenes, Czechoslovakia, Greece, Romania, Hungary, Austria, Bulgaria and Turkey), while several other countries were persuaded to accept minority obligations as a condition for a membership status in the League of Nations (Albania, Lithuania, Estonia, Latvia and Iraq). The other side of the minority rights, however, were forced population exchanges to make states more homogenous – minority rights and forced deportations sometimes figured together in the same peace treaties, which shows how they were effectively imagined as linked. Particularly notorious were the population exchanges imposed by the Conference of Lausanne (1923) after the Greco-Turkish War (1919-1922). According to the Convention Concerning the Exchange of Greek and Turkish Populations, the more than 1 million Greek Orthodox of Asia Minor were expelled from their homelands to be settled in Greece, while approximately 800.000 Muslims had to leave Greece and move to Turkey (it should be noted that the Convention refers to ethnicities or nationalities – Greeks and Turks – but actually the criterion was religious). The Lausanne Peace Treaty, which provided for the independence of the Republic of Turkey, however, exempted the Muslims of Western Thrace were as well as the Greeks of Constantinople (Istanbul), the Princes' Islands and the Islands of Imbros (Gökçeada) and Tenedos (Bozcaada); the Treaty guaranteed them

7 Hans-Lukas Kieser, (2011). "Germany and the Armenian Genocide of 1915–17". In Friedman, Jonathan C. (ed.). The Routledge History of the Holocaust, 30-44 (quotation p .41).

8 Minorities Treaty between the Principal Allied and Associated Powers (the British Empire, France, Italy, Japan and the United States) and Poland, signed at Versailles (28 June 1919), Art. 2 and 7 (http://ungarisches-institut.de/dokumente/pdf/19190628-3.pdf).

protection and freedom of religion, but imposed further 'population exchanges' between Bulgaria and Rumania.

Contemporary Relevance

There remains a lot of discussion about the significance of the League of Nations and of the treatment of minorities in particular. While diplomats and nationalists praised the deportations as contributing to creating homogenous nation-states, historians emphasize the immense suffering of people who had to leave their ancestral homes, property and friends behind to live in a foreign, unwelcoming land. Border disputes remain unsettled until today.

There is less discussion that the minority protections were a failure. That, however, had less to do with the lack of instruments to enforce the minority protections (though that certainly was also a factor) and the abuses of the system by the Nazis who had used the existence of German minorities in other countries as a pretext to invade them (esp. Czechoslovakia) but to the lack of support, the underlying nationalistic logic and implicit distinctions it cultivated between civilized and less civilized nations and between minorities and majorities: it was hard to defend that minorities were entitled to protections and freedoms that did not apply to the majority.

The failure of the minority protections, as exemplified by the Holocaust, legitimated the definition of human rights as individual rather than collective rights (although recent research has shown that their restatement was a far more complex affair than usually believed: see below). Nevertheless, both the 'population exchanges' and the minority protections were – and sometimes still are – viewed as finally contributing to the peace. The idea, most famously expressed by John Stuart Mill in 1861, that "free institutions are next to impossible in a country made up by different nationalities",[9] remains powerful. It resurfaced in the proposals for peace in the Yugoslavian War in the 1990s and underpins assimilationist policies of western European states, particularly France, until today: it was also the reason why Latin-American and West-European countries opposed the recognition of cultural genocide in 1947.

As Europe becomes more diversified, the idea of recognizing rights to cultural and religious minorities resurfaces, as it appears that the current human rights particularly with regard to religious issues offer insufficient protection against discrimination, as they reflect a dominant secular – Christian culture.

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[9] John Stuart Mill, *Considerations on Representative Government*, London, 1861, [Chapter 16: "Of Nationality, as connected with Representative Government"].

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Clippings

League of Nations

League of Nations: The scope of the Western principles of religious freedom

League of Nations: the petition system

Paris Peace Treaties: the protection of minority rights

Paris Peace Treaties: the Committee of Jewish Delegations

Paris Peace Treaties: Little Treaty of Versailles

Paris Peace Treaties: Treaty of Neuilly-sur-Seine (#1)

Paris Peace Treaties: Minority protection in Bulgaria

~~Paris Peace Treaties:~~ the Treaty of Lausanne (#1)

~~Paris Peace Treaties:~~ the Treaty of Lausanne (#2)

~~Paris Peace Treaties:~~ the Treaty of Lausanne (#3)

~~Paris Peace Treaties:~~ the Treaty of Lausanne (#4)

European Convention on Human Rights

Basic Facts

- Involved parties: The member states of the Council of Europe
- Date: 3 September 1953
- Place: Rome, Italy
- Applies to: The member states of the Council of Europe
- Main outcomes:
    - Human rights protection
    - Protection of political freedoms

Context

The end of WW II motivated not just a demand for a new institutional framework both at European and global level, but also a moral reset. The former was translated into new institutions, among which the United Nations at global level, and the Council of Europe between European countries. The UN can be viewed as the successor of the League of Nations, though made more effective (or at least that was the ambition), while European co-operation was a dream with a long history, but which had never materialized. Moreover, after the war nationalist feelings triumphed as the Nazi 'unification' of the continent had trumped the whole idea of a unified continent. Nevertheless, there were voices who reconnected with prewar ideas about European co-operation, which resulted in the creation of the Council of Europe in 1949, albeit that diverging views about its authority and status prevented it to become more than an association of states for general discussions. What was arguably more important was that the new Europe was built on very homogenous nation-states: the last European empire, the Third Reich, eventually split between the Federal Republic of Germany and the German Democratic Republic (1949). After the Nazi genocide(s) Europe's transnational minorities of Jews and Gypsies were, quite literally, reduced to ashes; besides the UK only in (South) Eastern Europe some multiethnic states remained, most importantly Yugoslavia and Czechoslovakia. Under communist regimes national identities as well as religion would be suppressed. Although not quite clear for all (quite the contrary), also the death knell had sounded for the European colonial empires: though after the loss of their Asian possessions, European empires still clung on to their African colonies, that too proved an ending story.

After the horrors of the war human rights emerged as a major theme and principle to ground an international order, although continuing colonial imperialism and the emerging Cold War actually prevented them to became effective and enforceable. But still, the UN did proclaim a Universal Declaration of Human Rights (UDHR) in 1948, the product of negotiations between states but prepared by a handful experts and officials who, while displaying a strong Western orientation, to some (admittedly limited) extend represented the global community. The non-Western and non-white experts – the Chinese Pen-Chun Chang and the Lebanese Charles Malik (both Christians), along with the Chilean Hernán Santa Cruz – left their mark

on the declaration by bringing in some non-western perspectives. One of the key dimensions was the universality of human rights – what still had been inconceivable in 1919 – as well as the focus on individual rights. They were formulated with the failure of the interwar minority rights regime in mind, but postcolonial and emerging Cold War considerations also played their part. But the UDHR was not legally binding, one reason why Great Powers (esp. the US) could abide to it. Moreover, the idea that states ought to be homogenous and governments needed instruments to promote homogeneity was not abandoned: as legal historians Emmanuel Dalle Mulle and Mona Bieling recently observed, in the parallel discussions on the Prevention and Punishment of the Crime of Genocide, leading to the genocide Convention (1948), European and Latin American countries opposed the idea of condemning cultural genocide, as they feared the condemnation of the assimilationist policies towards minorities.

The origins of the European Convention for the Protection of Human Rights and Fundamental Freedoms (abbreviated as European Convention on Human Rights, ECHR) drafted by the Council of Europe in 1950 (after ratification it came into force in 1953) are more complex than usually acknowledged. The driving forces behind the Convention were especially conservatives who aimed at limiting the power of the state and to prevent interventionist policies that would harm their interests. Nevertheless the ECHR to a large extent includes the same rights as the UDHR; it, however, makes them legally binding for the signatories. It recalls earlier texts such as the French Declaration of Rights of Men and the Citizen (1789) and focuses particularly on political rights (freedom of conscience and expression, including freedom of religion, freedom of assembly). This allowed to emphasize 'liberal', free Europe contrasted to the totalitarianism of fascism as well as communism – the freedom of religion in this perspective (also in the UDHR) was especially important to distinguish 'free Europe' from the USSR and the communist bloc, where free exercise of religion was prohibited or severely restricted and religious people persecuted.

However, the ECHR allowed states to derogate from the Conventions under certain conditions and did not automatically extend these rights to colonized territories, while it excluded foreign nationals. The ECHR moreover did not recognize the right of self-determination, nor equality before the law, albeit that the latter was recognized by the UDHR (art. 7). Hence some scholars do not consider the ECHR a human rights text at all. That may be overstated, but in practice human rights were not yet a key dimension of European politics, in part because human rights became invoked against colonialism.

The Convention foresaw the creation of a European Court for Human Rights (ECtHR) whose judgements would be binding on the state concerned, and it gave also individual citizens, a group of citizens or a member state of the Council of Europe the right to appeal to the Court. However, the Court only became established in 1957 and operational in 1959.

Key Aspects (Comparative)

Article 9 of the ECHR recognizes "the right to freedom of thought, conscience and religion; this right includes freedom to change her/his religion or belief and freedom, either alone or in community with others and in public or private, to manifest her/his religion or belief, in worship, teaching, practice and observance". It is noteworthy that the Convention here associates the freedom of thought – hence also of non-belief – and the freedom of religion,

and that the latter is not limited to beliefs but also includes worship and observance, though neither term is properly defined, leaving individual states as well as the Court itself when judging a wide space of interpretation. On the other hand, according to the European Court of Human Rights' Guide on Article 9 of the European Convention on Human Rights, Article 9 does not aim at regulating marriage in any religious sense. Moreover, it depends on each particular religion to decide the features of each marriage.

Religion was treated by the ECHR in several other instances. Article 14 prohibits discrimination with regard to the rights recognized in the Convention (thus not for what was not included), which is "secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status." Article 2 of the 1952 Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms furthermore states that "no person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions." Finally, Article 1 of the 2000 Protocol no. 12 of the European Convention on Human Rights stipulates a "general prohibition of discrimination" which is defined as an enjoyment of any rights set forth by laws "on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

Contemporary Relevance

The ECHR had a huge impact on the national laws of European states, and gradually gained significance, especially since the ECtHR became effective and after the European colonial states lost their main colonial possessions in the late 1950s and 1960s.

With regard to religious issues the ECtHR has especially defended the rights of religious people, including members of new religious movements, against states that try to overregulate and limit religious expressions. It has, in its own words (frequently quoted in different cases) promoted the idea that "Article 9 (art. 9), freedom of thought, conscience and religion is one of the foundations of a 'democratic society' within the meaning of the Convention. It is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, sceptics and the unconcerned. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it".[10]

As the principles expressed in the ECHR remain largely undefined, leaving ample space for interpretation and national differences, the ECtHR has evolved into a powerful arbiter and even actor in its own right setting the norms and limits of religious expressions in secular spaces. What has increasingly become an issue, however, is if the definition and understanding of human rights and of secularity (the separation of religion and state) are as 'neutral' or 'culture-free' as presumed by the ECtHR. Legal scholars argue that there is a fundamental 'asymmetric tolerance' in the Convention as well as in the rulings of the ECtHR that has been continued up to today, implying that the courts, including the ECtHR as well as

10 Kokkinakis v. Greece, European Court of Human Rights, 25 May 1993, No. 14307/88.

the ECJ, interpret secularity and neutrality (which historically and philosophically are different) in a very European and 'Christian' way which in practice discriminates minority religions and particularly Islam. One example of this asymmetric tolerance may be the interpretation of the hijab as a religious symbol challenging the 'neutrality' in secular or public spaces – each of these concepts may be questioned – but not of the crucifix when displayed in public schools. But criticism also comes from both populists and conservative Christians, who defend a European 'Christian' culture, as well as from militant secularists (see the discussion in the RETOPEA policy report Pasture & Georgieva 2022).

Notwithstanding these issues that particularly came to the fore in the 1990s and 2000s, Western Europe since the 1980s increasingly promoted itself as a harbinger of human rights, and they became key references for the European institutions. This process culminated in 2000 when the ECHR became part of the European Charter of the EU, which in 2009 became also officially binding for all EU member states (see below).

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Clippings

European Convention on Human Rights: the beginning

European Convention on Human Rights: defining ‘religion’

European Convention on Human Rights: freedom of thought, conscience and religion

European Convention on Human Rights: discrimination (#1)

European Convention on Human Rights: the right to an education

European Convention on Human Rights: discrimination (#2)

European Convention on Human Rights: the right to ‘manifest’ belief

European Convention on Human Rights: marriage and divorce

European Convention on Human Rights: Kosteski v FYR Macedonia

The Belfast Agreement

Basic Facts

- Involved parties: The United Kingdom, Ireland (also known as the Republic of Ireland), various political parties active in Northern Ireland
- Date: 10 April 1998
- Place: Belfast, Northern Ireland
- Applies to: The United Kingdom, Ireland (also known as the Republic of Ireland), various political parties active in Northern Ireland. Primarily aimed at Northern Ireland
- Main outcomes: a pacification of the violence (also known as The Troubles) in the region of Northern Ireland. The foundation of various institutions to facilitate a long term prevention of further conflict and violence.

Context

From the Middle Ages onwards, the Island of Ireland was ruled and controlled in various forms and through various regimes by England and later Great Britain. Throughout the eighteenth and nineteenth century, aspirations from Irish Catholics and moderate Protestants –mostly those not conforming to the Church of England- had been met with a mix of oppression and some institutional reforms. The Easter Rising (1916), which was bloodily suppressed by the British government, gave an impetus to the aspirations for Irish self-rule and independence. In 1918 Nationalist Irish politicians seceded from the United Kingdom, which started a violent conflict. This led to a settlement and a partition of the island in 1921. The larger Southern part of the island gained a degree of autonomous rule and became known as the Irish Free State. By 1949, this part became completely independent from the United Kingdom and the Commonwealth and turned into a republic named Ireland. A smaller Northern part of the island remained part of the United Kingdom and is since known as Northern Ireland. Some writers and parties refer to Northern Ireland as Ulster.

Whereas the majority of the population of the Republic of Ireland identified as Catholic, a small majority of the inhabitants of Northern Ireland identify as Protestants. As many of them feel more connected to the United Kingdom, which by the time of the partition was a predominantly Protestant country, they and especially their political representatives who advocate continuing membership of the United Kingdom are known as Unionists. Many of them considered themselves rather as British than Irish. Many of the Catholics living in Northern Ireland in contrast felt more connected to independent Ireland and see themselves as Irish. These people and their political representatives are known as Nationalists.

The island of Ireland was relatively little industrialized compared to other parts of Europe and had largely remained an agrarian society. Northern Ireland was the most industrialized area of the island, but by the 1960's that industrial complex was in decline. The economic hardship brought by this situation contributed to social tensions and frustration among the population. It also led to the perception that wealth and good employment was more in the hands of

Protestants. However, it would be misleading to consider the divisions within Northern Irish society as primarily economic. Nor was it a predominantly ore mere religious division. Positions were defined predominantly in political and national terms (Irish and Nationalist versus British and Unionist), but poverty, economic tension, religious divisions, and a tendency to live segregated per community complicated the divisions.

The division of Ireland between an independent republic and the Northern part that remained part of the United Kingdom was a stable but contested situation for four decades between the 1920's and the 1960's. Jobs in civil service, justice and policing remained largely reserved for Unionists and Protestants. The Irish Republican Army (IRA), a group of Nationalists, did not accept the division of the island and the privileged position of Unionists and Protestants in Northern Ireland. A split-off division of the IRA, known as the Provisional IRA, began to take a more radical and violent stance.

The tension between Catholics and Protestants, Nationalists and Unionists escalated at the end of the 1960's. Nationalist celebrating and commemorating the fiftieth anniversary of the Easter Rising led to violence. Radical Unionists began to found paramilitary societies, allegedly to protect themselves. Inspired by civil rights movements in the United States of America, Catholics and Nationalists in Northern Ireland began to demonstrate for emancipation and a better treatment by the British government. Marches of Protestant societies, which annually celebrated 17th century English wins over Catholics, became sites of fights and other violence. In response to these riots, the British government brought divisions of the British army in to pacify the situation. The result, however, was counterproductive. Nationalists considered the army as an occupying force and demanded its retreat. In the coming years, the situation worsened. In January 1972, the British army killed 13 civilians during a demonstration. This led to a further radicalisation of the conflict, and the Provisional IRA began to engage in terrorism in Northern Ireland as well as in Great Britain. Paramilitary Unionist groups retaliated and provoked further violence.

Throughout the 1970's and 1980's violence between Nationalist terror groups, Unionist paramilitary groups and the British army continued and deeply marked Northern Irish society. The number of people that actively engaged in violence was limited, but many families and communities had to endure the consequences of the conflict. This led to a deep polarization of Northern Irish society. In some cities and towns, physical borders were placed to control access for Nationalists and Catholics to Unionist and Protestant area's and vice versa.

Throughout the beginning and the middle of the 1990's, temporary ceasefires and resurgence of terrorism followed one another. Political parties of both communities in Northern Ireland began to engage in talks to pacify the conflict. Delegates of the British government and of the Republic of Ireland also took part in the peace talks. Bill Clinton, the president of the United States followed this process closely, and the recently (1997) elected British Prime Minister Tony Blair also contributed to it. On 10 April 1998, the parties reached an agreement, officially known as the Belfast Agreement. Because it was closed on Good Friday, an important day in the Christian calendar, it is often referred to as the Good Friday Agreement.

Key Aspects (Comparative)

The Belfast Agreement consists of two main agreements which are interrelated. A multi-party agreement was made between Northern Irish political parties and representatives of Northern Irish communities. An international agreement made between the government of the United Kingdom and the Republic of Ireland serves as the second agreement. The agreements consist of expressions of general principles and values, as well as of concrete actions, measures and institutional reforms.

The agreements to pacify the conflict reflect the layered and entangled aspects of the conflict, in which political, self-identification, religious, social and economic dimensions were at play. It should be noted that in the texts of the agreements direct references to religion are few. The agreements describe the tensions and the open conflict as taking place between communities rather than between religious groups.

The various texts of the Belfast Agreement repeatedly acknowledge the importance of involving the communities in the process of pacification. They take note of the plight of victims, their families and communities and acknowledge the pain that this past has caused. The agreement stresses the importance of remembering the victims of the conflict. It explicitly links this obligation to the aspiration to achieve and maintain peace by stating that that is the best way to honour the victims. This approach stands in clear contrast to Early Modern approaches to reconciliation such as in the Edict of Saint-Germain of the Peace of Westphalia.

The involvement of communities is combined with the importance that the agreements give to democracy. Democratic processes are repeatedly mentioned as cornerstones of the success of the agreement. The democratic base for the agreements is sought through various popular votes and elected bodies. First, the agreement was submitted for popular approval by the electorate of the Republic of Ireland as well as of Northern Ireland. In both parts of the island, the agreement was accepted through a referendum. This popular and democratic acceptance is a distinctive aspect of the Belfast treaty. The Belfast agreement also acknowledged the legitimacy of the aspiration to unite Ireland. It states that the only way towards such a unification can be through a referendum to be held in Northern Ireland. Finally, the agreement also foresaw in the set-up of a representative body for Northern Ireland, named the Northern Ireland Assembly. This body is composed through a democratic election through a system of proportional representation. The agreement also stipulated that on the executive level both communities in Northern Ireland needed to be included. This prevented the rule of a majority community over a minority one. A crucial aspect of pacifying the conflict consisted of the collection of weaponry held by terror groups, the dissolving of paramilitary groups, and in re-establishing the trust in local police forces. The agreement provided clear stipulations for this, which were largely, but not completely followed up.

Contemporary Relevance

The Good Friday Agreement remains the basis for current-day peace in Northern Ireland. Its provisions still determine the political organization of the territory, with power being shared equally between Unionists and Nationalists. The agreement forces both groups to work together – when they fail to work together, as happened between 2017 and 2020, Northern

Ireland falls into a political and governmental limbo, which provides both sides with an incentive to explore cooperation. Moreover, both communities have largely accepted and approved of the peace, with neither side really wishing to overturn the Belfast Agreement. Although violence and tensions sometimes emerge, radical Catholics and Protestants have found it difficult to recruit new members or to get their message across.

This is not to say that the Northern Irish peace is considered to be fully stable. The relations between the communities have certainly improved, but both Unionists and Nationalists remain scared by the recent violent past and remain on edge. This distrust is not helped by the fact that on both sides controversial figures were involved in the peacemaking process and later in the politics of Northern Ireland – it is often deemed ironic that the warmongers of the past have now become icons of peace, without it being fully clear if and how they were responsible for violent acts during the Troubles. In this sense the Belfast Agreement has brought peace to Northern Ireland, but many would argue that justice is still lacking.

Moreover, given these remaining tensions, commentators and analysts fear that a sudden shock to the peace or a reversal of circumstances might lead to the breakdown of the agreement and to renewed violence. One such anticipated shock was the Brexit referendum, as the withdrawal of the UK from the European Union also implied that Northern Ireland would withdraw from the EU. This, in turn, meant that the border between the Republic of Ireland and Northern Ireland would become a much more visible border, potentially including customs and security checks on the goods and people moving between the two Irish countries. Although the Good Friday Agreement does not say that such a border cannot be created – as many people argued it does – the border regions were some of the more violent places during the Troubles. British and Unionist policemen and soldiers checking the border were frequently targeted in the 1970's and 1980's, exactly because for the IRA the boundary symbolised the unwanted division of the Isle of Ireland. Brexit has indeed led to a bit more violence than in previous years, but all in the Good Friday Agreement still stands.

Another important aspect of the Belfast Agreement is that it is often considered one of the foremost successes of peacemaking in recent decades. Although the violence of the Troubles spanned over three decades, the peace has now lasted for two decades, allowing commentators to suggest that the 'Northern Ireland model' could be applied to other (religious) conflicts as well. Although opposition remains to this view, the Good Friday Agreement is most often considered a success and an example that could be useful elsewhere in the world.

Finally, it should also be stressed that both the Troubles and the agreement that ended them serve as a stark reminder of the still influential religious divisions in Europe. Europe is frequently portrayed as a continent of unity and peace, but until 1998 a leading European power was fighting a sectarian war on its soil. Additionally, the IRA and the Unionist paramilitaries engaged in terrorist activities, which also offers and interesting link with other (religious) terrorist groups today.

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The Good Friday Agreement

Background to the Good Friday Agreement

Good Friday Agreement: A Catholic Response

The Good Friday Agreement: A Protestant Response

Maps of Northern Ireland

New Life Church, Belfast

Belfast Peace Wall

A view from 2019: Norman Hamilton

Ohrid Framework Agreement

Basic Facts

- Involved parties: Republic of North Macedonia, ethnic-Albanian representatives, representatives from the EU and the USA
- Date: 13 August 2001
- Place: Ohrid, North Macedonia
- Applies to: The citizens of the Republic of North Macedonia
- Main outcomes:
    - Ceasefire in North Macedonia
    - Institutionalizing the Macedonian multi-cultural and multi-confessional "societal character"
    - Constitutional reform in North Macedonia
    - Promoting a model of decentralized governance in North Macedonia

Context

The historical and geographical region of Macedonia is located in the central part of the Balkan Peninsula. It was administered by the Ottomans up until the early 20th century. After the First (1912- 1913) and the Second Balkan Wars (1913), as well as the First World War (1914-1918), the Ottoman rule was overthrown. The territorial division from the previous armed confrontations was finalized in the aftermath of the Second World War (1939-1945). Parts of the region were added to the Greek, Yugoslav, Bulgarian and Albanian states. The region of Macedonia kept its multicultural, multiconfessional and multilingual population structure. For instance, the region hosted large Orthodox Christian and Muslim communities, as well as significant Jewish, Catholic and Protestant groups.

The Socialist Republic of Macedonia, the northern part of the region of Macedonia, was a Yugoslav federal unit from 1945 to 1991. It gained its independence after the successful referendum from 8 September 1991, being the only state to avoid the blood-shed of the Yugoslav Wars in the 1990s. The Yugoslav Wars (1991-1995), were a series of armed conflicts on the territory of Yugoslavia, which resulted into more than 130000 casualties. The pre-1991 federal unit, as well as the independent Republic of Macedonia (1991-2018), recognized to a large-extend its multicultural and multiconfessional population. However, state policies were generally promoting the ethno-Macedonian and Orthodox Christian identity in the first post-Yugoslav decade. Minority groups were treated as primarily affiliated to the neighboring kin-states. The building of intra-ethnic cleavages lead to a seven-month insurgence in 2001 between the Macedonian security forces and armed ethnic-Albanian groups. According to the historian Ulf Brunnbauer, the nine-month insurrection resulted in more than 200 casualties and over 100.000 exiled and persons who were forced to flee their homes but remained within the state's borders. The Framework Agreement, projecting a ceasefire and a set of minority rights improvements, was concluded in Ohrid on

8 August 2001 and signed in Skopje on 13 August 2001. The country has officially changed its constitutional name to Republic of North Macedonia in 2018.

As aforementioned, the Ohrid Framework Agreement was drafted in Villa Biljana, Ohrid, in the course of July-August 2001 and was concluded in Skopje on 13 August 2001. It was signed by the President of the Republic of Macedonia, the leaders of the state's major political parties and supervised by the representatives of the European Union and the United States of America. From a present perspective, it is praised as an Agreement which contributed to the suspension of hostilities and the emergence of a full scale civil war in the Republic of Macedonia. The Agreement was also recognized as a platform for further adoption of the Macedonian multiethnic and multiconfessional reality. As per the 2002 population census, the ethnic-Macedonians account for 64.2% of the total population, while the ethnic- Albanians account for 25.2%. The ethnic-Macedonians are predominantly Orthodox Christians, while the ethnic-Albanian community is predominantly Muslim. The state has also significant Turkish, Roma, Serbian, Bosniak and Vlach communities.

The seven-month crisis from 2001 has significantly damaged the Republic of Macedonia's security sector – the Macedonian army and the police forces. The insurgence made public those security fallacies and the media was massively reporting on them. The Macedonian security sector was given a strong reforming boost only after the signing of the 2001 Stabilization and Association Agreement with the European Union. This Agreement, alongside the Ohrid Framework Agreement, was the key documents in the early 2000s reform agenda of the Macedonian society. According to Lidija Georgieva, a peace studies expert, these peace-building policies, envisioned with these two agreements, were primarily directed towards the reestablishment of the Macedonian security sector and aimed at fostering the multiethnic cooperation.

Key Aspects (Comparative)

The OFA's five basic principles were stressed as crucial in the implementation of the Agreement. The first principle completely and unconditionally rejects the use of violence in the pursuit of political aims. Furthermore, the principle reads as follows: "Only peaceful political solutions can assure a stable and democratic future for Macedonia." In these regards, the OFA can be compared to the 1573 Confederation of Warsaw, the 1555 Religious Peace of Augsburg and the 1684 Peace of Westphalia, which all had the prerogative of peaceful solutions over the religious and ethnic dissents. The second principle highlights the Macedonian sovereignty, territorial integrity and the unitary character of the State, which are "inviolable and must be preserved." The third principle is a stress on the "multi-ethnic character of Macedonia's society," which must be preserved and reflected in the public life. The fourth principle approaches the envisioned constitutional reform. The fifth principle advances the development of the local self-government system. The self-government is brought as "essential for encouraging the participation of citizens in democratic life, and for promoting respect for the identity of communities." In these regards, the OFA is comparable to the 1995 Dayton Accords, which settled the war in Bosnia, and the 1999 Good Friday Agreement, which set the agenda for the Northern Ireland peace process.

Contemporary Relevance

The Ohrid Framework Agreement's basic principles were further debated within the domestic and international public even after the official ratification of the settlement. The debate over the OFA's basic principles was frequently titled as a dispute over the "spirit of the Agreement." In judicial terminology, the key questions instigated with OFA were discussed as the "sense and purpose" of the Agreement. The various expert voices, in these regards, were questioning the very foundations of the OFA. Instead of a ceasefire, it was frequently argued that the main rational of the OFA is the constitutional redesign of post-Yugoslav Republic of North Macedonia. The main argument herein was the inability of the 1991 republican constitution to settle the building inter-ethnic tensions of the various religious groups in the state.

Another important segment of the conflict resolution after the Ohrid Framework Agreement was the rebuilding of the inter-cultural and inter-religious trust in the Republic of North Macedonia. Social trust suffered a serious shock during the seven-month crisis. This particular agenda was aimed to be accomplished by a wider set of institutional reforms – the rule of law, judicial independence, reforms in the police sector and reforms in the state-borders management sector. Until the present day, one can stress that the initial set of post-conflict reforms were successfully implemented. On the other hand, reconciliation and peace-building activities are still ongoing on the ground.

The OFA is still being commemorated in two divergent ways within the Macedonian public. For instance, in the early 2010s, a massive constructing project called "Skopje 2014" was launched in the Macedonian capital. The project contains more than 137 monuments and memorial objects dedicated to historical persons and events predominantly from the ethnic-Macedonian history. Just several years after the promotion of "Skopje 2014," a similar project was launched at the "Skenderbeg Square." The Square, located in the dominantly Albanian part of the town, is hosting a large mural of ethnic-Albanian historical figures. Both were recognized by experts as projects which are further dividing the Macedonian society. On 14 December 2018, seventeen years after the 2001 armed conflict in Republic of Macedonia, the first joint commemoration of the civil victims took place in the village of Lipkovo.

The main actors of the commemoration were Stojanče Angelov, former General Major of the Special Macedonian Forces, and Abedin Zimberi, former Commander of the Military Police of the National Liberation Army. Both Angelov and Zimberi laid flowers on the graves of the civil victims of Lipkovo and made public statements in favour of a Macedonian-Albanian reconciliation.

From a comparative perspective, the OFA is frequently compared to the peace treaties which concluded the Yugoslav wars of the 1990s. On one hand, OFA is often reported as a peace treaty which „learned the mistakes" of the Dayton Accords. The Dayton Accords was an agreement reached on 21 November 1995 by the presidents of Bosnia and Herzegovina, Croatia and Serbia, which ended the war in Bosnia. The reference of the Dayton Accords is related to the OFA's solution of decentralizing the government, rather than dividing it across the ethnic or religious lines (Dayton Accords). On the other hand, the OFA is also discussed within the context of the Kosovo war and the Kumanovo Agreement which settled the war. In these regards, several scholars are regarding the Macedonian conflict as a prolongation of the Kosovo war and its settlement.

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Clippings

Ohrid Framework Agreement: The Basic Principles

Ohrid Framework Agreement: emblems marking identity

Ohrid Framework Agreement: the start of the conflict

Ohrid Framework Agreement: ‘the elephant in the room’

Ohrid Framework Agreement: a Macedonian model of multiculturalism (#1)?

Ohrid Framework Agreement: a Macedonian model of multiculturalism (#2)?

Ohrid Framework Agreement: the ‘spirit of the Agreement’

Ohrid Framework Agreement: commemorating the 2001 conflict (#1)

Ohrid Framework Agreement: commemorating the 2001 conflict (#2)

Charter of Fundamental Rights of the European Union

Basic Facts

- Involved parties: The member states and the institutions of the European Union
- Date: 7 December 2000
- Place: Nice, France
- Applies to: The member states and the institutions of the European Union
- Main outcomes:
    - Enshrines political, social and economic rights of the EU citizens and residents into EU law
    - Recognizing the “spiritual and moral heritage” of the European Community

Context

Since the 1970s the European Communities searched for common values that could appeal to the increasing diversity of the communities, particularly since the first enlargement with the UK, Ireland and Denmark. Partly responding positively to the US focus on international human rights and transnational social movements such as Amnesty International, the European Community invented itself as a community of values promoting human rights and ‘unity in diversity’, which signified a break with its history of nationalist infighting and horrors – that is why the Holocaust moved towards the Communities’ ‘negative founding myth’ (Klaus Leggewie). The culmination of that process (but also its apogee) was the proclamation of a Charter of Fundamental Rights of the European Union (CFREU) at the Intergovernmental Conference held in December 2000 in Nice, France.

The rights proclaimed by the CFREU were drawn from various international and national sources, in particular the European Convention of Human Rights, the Universal declaration of Human Rights as well as the European Community’s own 1989 Charter of the Fundamental Social Rights of Workers. The CFREU addressed the “spiritual and moral heritage” of the European Community, which it declared to be founded upon the “indivisible, universal values of human dignity, freedom, equality and solidarity,” as well as the “principles of democracy and the rule of law.” Moreover, the document envisioned a creation of “an even closer union” among the EU member states, based on the aforementioned “common values.” Respect for the cultural, religious and linguistic diversity (art. 22) was one of the key dimensions of this new orientation, though it should be noted that this diversity basically refers to the national and regional diversity, far less, if at all, to the fast increasing diversity as a result of immigration and other cultural processes of post-modernity.

The legal status of the CFREU remained unclear until it was referenced (though not formally included) in the Treaty of Lisbon (2007), which also explicitly declared that the EU was “founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities” (art. 2). In this way the CFREU became part of EU’s legal framework and binding, the European Court of Justice competent for judging its application.

Key Aspects (Comparative)

The Charter of Fundamental Rights of the European Union constitutes a set of rights, freedoms and principles organized in seven subchapters and 54 articles. Article 10, titled "Freedom of thought, conscience and religion," is part of the second CFREU's section on "Freedoms." "Freedom of thought, conscience and religion," according to the article, is granted to everyone living in the EU – regardless of their confession, belief, ethnic or racial origin. Moreover, the article is clear that the "freedom of thought, conscience and religion" includes "freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance." Alongside Article 22, article 10 hints at the today's EU major approach on the religious freedoms. On one hand, with the CFREU, the EU recognizes its cultural and religious diversity, while aiming at facilitation of a stronger cooperation within its popular core. On the other hand, the EU remains a highly secular body. Herein, the CFREU's Article 10 corresponds to the Article 9 of the European Convention on Human Rights, which ensures the manifestation of one's religion or beliefs "shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interest of the public safety, for the protection of public order, health or morals, or the protection of rights and freedoms of the others.

The Charter of Fundamental Rights of the European Union prohibits discrimination and obliges the EU Member States to fight crimes motivated by racism, xenophobia, religious intolerance or by a person's disability, sexual orientation or gender identity. With the development of the modern technologies, the "online universe, especially social media, provides a forum for the free and open expression of ideas and as such promotes democracy and, in particular, freedom of expression."

The Charter also addresses hate crime such "violence and crime motivated by racism, xenophobia, religious intolerance or by a person's disability, sexual orientation or gender identity." These types of crimes are reported to be "a daily reality throughout the European Union." However, the victims and the witnesses of hate crimes are not always willing to report those crimes, as shown in the 2012 report "Making hate crime visible in the European Union: acknowledging victims' rights." The report concludes that the "EU and its Member States can combat hate crime and address the related fundamental rights violation by making them both more visible and holding perpetrators accountable. This entails encouraging victims and witnesses to report crimes and incidents, while increasing their confidence in the ability of the criminal justice system to deal with this type of criminality decisively and effectively.

Contemporary Relevance

It is hard to overestimate the significance of the CFREU as it regulates so many aspects of life of European citizens, though one may question its impact on the foreign policy of the EU. The ECJ has taken over de role of the ECtHR with regard to human rights issues including the freedom of religion. Notwithstanding some tensions between the two courts, both largely follow the same legal reasoning and activism. Also the ECJ has manifested itself as a solid beacon in this respect, though it also raises the same set of issues and criticisms.

The EU promotes its values through a variety of cultural policies. However, the Eastern Enlargement has proved challenging in this respect. First, the focus on the remembrance of the Holocaust was not shared by East-European states who demanded at least equal recognition of the horrors of the Soviet occupation, something the EU, and certainly West-European leaders, only reluctantly agreed to. The question also laid bare a second dividing line, the appreciation of pluralism. Eastern European countries, whose perception was very much influenced by negative memories of the Ottomans dating from the nineteenth century nationalistic wars as well as by the reemergence of ethno-nationalistic conflicts after 1989, did not cultivate the same embrace of pluralism as the EU. The refugee crises of the 2000s have further sharpened the tensions, however they also blurred the east-West opposition.

Annotated Bibliography

Source:

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Clippings

Charter of Fundamental Rights of the European Union

Charter of Fundamental Rights of the European Union: religious diversity

Charter of Fundamental Rights of the European Union – cultural diversity

Charter of Fundamental Rights of the European Union: challenging religious discrimination

Charter of Fundamental Rights of the European Union: non-discrimination

Charter of Fundamental Rights of the European Union: hate crime

Charter of Fundamental Rights of the European Union: the internet and extremism (#1)

Charter of Fundamental Rights of the European Union: the internet and extremism (#2)

Charter of Fundamental Rights of the European Union: freedom of thought, conscience and religion

Charter of Fundamental Rights of the European Union: religious freedoms

Charter of Fundamental Rights of the European Union: diversity in schools

Charter of Fundamental Rights of the European Union – victims of violence based on religion