

Liberal Political Philosophy of Religious Difference after Saba Mahmood

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Abstract

This contribution responds to Saba Mahmood's critique of secularism and uses it for theory development in liberal political philosophy. Building on the work of Rahel Jaeggi I reconstruct selected parts of Mahmood's works as an immanent critique of secularism as a form of life. I argue that liberal egalitarian political philosophical approaches to religious difference should broaden the focus of social critique. Beyond – but not instead of – formal regulations such as constitutional law and religious accommodation, political philosophy needs to address what Mahmood calls “ethical sensibilities”, and informal social practices and conventions. My considerations are informed by an exploration of the refusal of some pious Muslims to shake hands with someone of the opposite sex, and controversies about this issue in Western-European countries.

Keywords

form of life – immanent critique – political philosophy – religious difference – secularism

Saba Mahmood's contributions to scholarly debates about, for instance, religious difference, secularism, and freedom of religion have been influential well beyond her own discipline, and political philosophy is one of the fields in which her voice was and continues to be heard. Mahmood painstakingly analysed the conceptual tools and normative principles of liberalism and political secularism, and examined their effects under conditions of religious difference both in Egypt, and Europe. Her conclusions are clear: political secularism and the liberal state respectively, she argues, fail to deliver on the promise to

guarantee religious liberty and to allow all members of society to enjoy a status as equals, irrespective of their religion (see, e.g., Mahmood and Danchin 2014; Mahmood 2016a).

Many philosophers and political theorists agree that the questions that Mahmood asks, and the problems she identifies have to be taken into account in analyses of religious diversity, religious liberty, and political secularism (see, e.g., Jansen 2017; Wilson 2017). The most thorough reception of, and response to Mahmood's critique in political philosophy has been provided by Oxford political theorist Cécile Laborde. Laborde counts Mahmood to a group of critical religion theorists challenging liberal egalitarian approaches to religious diversity on a fundamental level, for instance by pointing to conceptual biases in the notion of religion and, resulting from this, the right to freedom of religion (Laborde 2017). She acknowledges and takes seriously the problems identified by Mahmood and other authors, and in response Laborde disaggregates religion into several interpretive dimensions that can be morally and politically significant. By doing so, Laborde uses Mahmood's work constructively for a reformulation of political liberalism that responds to some of the problems that Mahmood and others identified on the level of principles like freedom of religion and state neutrality. Other political theorists, however, dismiss large parts of Mahmood's critique of political secularism quite straightforwardly, and assert that she is "hostile to liberalism" (Cohen 2018: 207; see also Joppke 2017; Joppke 2018).

In this article I want to argue that an understanding of Saba Mahmood's critique as plain *rejection* of political secularism does not do justice to her work. Mahmood seems to have anticipated such interpretations herself, and points out already in the introduction to *Religious Difference in a Secular Age* that her goal cannot be to do away with secularism, since she considers it "an ineluctable aspect of our present condition as both political imagination and epistemological limit." (Mahmood 2016a: 21). More importantly, however, she emphasizes that "to critique a particular normative regime is not to reject or condemn it; rather, by analyzing its regulatory and productive dimensions, one only deprives it of innocence and neutrality so as to craft, perhaps, a different future." (Mahmood 2016a: 21).¹ But how could such a "different future" look like with regard to theory development in liberal egalitarian political philosophical approaches to religious difference? Or, to put it differently, if, as Mahmood

1 Mahmood repeats this in her answer to Ussama Makdisi's response to *Religious Difference in a Secular Age*, and re-emphasizes that she is "not interested in condemning secularism but critically examining it," and that critique "does not imply [...] a condemnation or renunciation of the phenomenon one examines." (Mahmood 2016b: 81).

argues, political secularism cannot achieve its aims, are there any other, or complementing directions that could be pursued so as to at least mitigate some of the problems that cannot be solved by political secularism alone?

Although she never elaborates on the details of such directions, Mahmood hints at possibilities that are outside of the realm of formal, and legal regulations such as constitutional issues regarding the relation between the state and religion, or specific instances of religious accommodation. She refers to this as an “ethical” thematization of religious difference (Mahmood 2016a: 213).

In this contribution I want to follow this path and explore how liberal egalitarian political philosophies can be further developed in the light of the work of Saba Mahmood, especially with respect to approaches to religious difference that go beyond the level of legal regulations and state politics. By liberal egalitarian political philosophies, I mean theories that claim that people should be free to choose and practice their religions or other conceptions of the good. Moreover, they argue that all members of society are entitled to equal concern and respect, and should be able to contribute to shaping the future of society on a par with others, irrespective of their religion.² In this contribution I do not provide a critical examination of Mahmood’s analyses of political secularism in general and of her investigation of the contribution of secularism to the construction of religious minorities and their legal or political struggle in Egypt in particular (see, e.g., Mahmood 2016a). Rather, I want to offer a conceptualization of Mahmood’s project in terms of a critique that examines secularism on its own terms, while at the same time submitting the normativity that is immanent in secularism and secularity respectively to critical scrutiny as well.³ Here I follow, albeit not in all details, the work of German philosopher Rahel Jaeggi on a “critique of forms of life” (Jaeggi 2014).

2 This broad understanding of liberal egalitarianism covers various more specific approaches that disagree about issues such as the legitimacy and the scope of religious accommodations or the role of religious arguments in public political debates. I do not go into such specific issues in this contribution, since my proposal is independent of them.

3 Mahmood distinguishes between political secularism and secularity as “two distinct, albeit related dimensions of the secular” (Mahmood 2016a: 3). She conceptualises the former as the modern state’s relationship to religion and its power to reorganise religious life, whilst secularity denotes attitudes and sensibilities that modern believers are supposed to have under circumstances of secularism (see Mahmood 2016a: 3). I will go into the differences between these concepts below. By using the term ‘secularism’ in my conceptualisation of Saba Mahmood’s work as immanent critique of secularism as a form of life, I follow Mahmood’s main interest in (political) secularism in her book *Religious Difference in a Secular Age* (Mahmood 2016a). As I will demonstrate below, it is important to realize that Mahmood’s concept of political secularism is much broader than conventional accounts in liberal political philosophy.

The aim of this interpretation of Mahmood's work as immanent critique of secularism as a form of life is twofold. Firstly, to identify the sources of normativity on which Mahmood draws in her critique of secularism, a critical question that has been addressed to Mahmood and other critical scholars of secularism and religion. Jonas Jakobsen, for instance, describes a "lack of normative context" in Mahmood's work, that is the problem that Mahmood identifies features of (political) secularism that she considers objectionable without providing a real argument for what is wrong with the respective feature, and for what reasons (Jakobsen 2015).⁴ Secondly, my interpretation of parts of Mahmood's work as immanent critique of secularism as a form of life aims to point out the scope and depth of the object of Mahmood's critique as reaching much deeper and far beyond narrow conceptualizations of political secularism in the sense of a set of principles like the separation between religion and the state. This will be important for the subsequent section in which I explore the refusal of some pious Muslims in the context of Europe to shake hands with people of the opposite sex, and public controversies about this practice. In the concluding section I suggest a direction into which political philosophical approaches to religious difference could be developed against the background of, and informed by Mahmood's critique of (political) secularism.

1 Mahmood's Critique of Secularism as Immanent Critique of a Form of Life

How can Mahmood's project of a critical anthropological examination of secularism be conceptualized so as to understand the sources of normativity that are part of it, and to make it fruitful for the development of liberal egalitarian political philosophical approaches to religious diversity? The work of practical philosopher Rahel Jaeggi offers interesting conceptual tools for this, both with regard to the form of critique, and concerning the object of critique. As for the latter, Jaeggi is interested in "forms of life" (*Lebensformen*) that she describes as culturally informed social formations constituted through relatively inert

It entails, for instance, also informal relations that it establishes, which is why I use 'secularism' rather than 'political secularism' to denote the form of life that is the object of critique.

4 Jakobsen focuses in his analysis and criticism on Mahmood's analyses of the moral injury that some Muslims felt in view of the Danish Muhammad cartoons, but the question he asks concerns other parts of Mahmood's work as well.

bundles of social practices. Next to such bundles of social practices, forms of life comprise attitudes and orientations, and they are manifest in formal and informal institutions and materializations. (Jaeggi 2014; Jaeggi 2015: 16). Examples of such forms of life are manifold: the family, the city, capitalism, democracy, and so forth. Although forms of life cannot be adequately understood in a purely functional sense, they are, according to Jaeggi, “instances of problem-solving”, that is to say they include responses to problems. These problems are historically situated, and shaped by a particular socio-cultural context. The form of life of “the” European city, for example, “can be seen as meeting economic demands as well as providing opportunities for the interaction of strangers” (Jaeggi 2015: 21), and it does so in a particular socio-cultural context. This understanding of forms of life as instances of problem-solving has normative implications: a form of life is also constituted by “normative criteria of appropriateness” (Jaeggi in Fraser and Jaeggi 2018: 137), and can be critically examined on the basis of these criteria. Accordingly, to criticize something as a form of life means “examining it with regard to its ability to solve normatively pre-defined problems, and to enable appropriate processes of learning and experience.” (Jaeggi in Fraser and Jaeggi 2018: 137). But how can such a critique of forms of life look like?

Jaeggi distinguishes three modes of critique, of which one is particularly suitable for a critique of forms of life. First there is external critique, which takes the measures of critique from outside the object that is critically examined. This is, for instance, the case if we criticize greeting customs and eating habits of a specific group of people to which we do not belong in the light of our own norms and customs. A second form of critique is internal critique. Here, one examines whether the object of critique, for instance a democratic state, actually lives up to the standards and promises that it claims to represent. So the idea is that internal critique examines whether particular ideals and norms that are part of the self-understanding of, for example, an institution (e.g. a university) or a social order (e.g. a particular democracy) are actually and de facto realized. This mode of critique is conservative in the sense that the normative measures of internal critique are derived from the object of critique itself, and accepted by those people whose practices are critically examined. Internal critique does not aim at a transformation of a normative order, it does not even examine “whether the ‘standards and promises’ in question are even worth living up to.” (Jaeggi in Fraser and Jaeggi 2018: 138). Rather, it looks for possible inconsistencies between norms and actual practices, and aims at a realization of already accepted norms and ideals on the level of practices, institutions, and so forth. (Jaeggi 2014: 263–268; 272–274).

This is different in the case of the third mode of critique, immanent critique, which Jaeggi proposes for a critique of forms of life. Immanent critique is initiated by disturbances that arise when a form of life no longer succeeds as instance of problem-solving. Such crises are not necessarily caused by external factors, but they occur also because of tensions and contradictions in the self-understanding as well as in the practical reality of a form of life. Unlike in the case of internal critique, however, these tensions are not merely inconsistencies between normative standards and actual practices. Rather, the norms that are intrinsic to a form of life *are* realized and effective, but as such they produce effects that turn themselves against the substance of the norm (Jaeggi 2014: 291). Jaeggi illustrates this in a conversation with Nancy Fraser about capitalism with the example of the “free labor market” that distinguishes itself from feudalism in the presumption that participants are free and “that workers and employers contract as ‘equals.’” (Jaeggi in Fraser and Jaeggi 2018: 139). The idea of equality is not just a norm, here, but “a functional condition of the capitalist labor market.” However, in reality the worker is free and equal only formally, as Jaeggi argues, and *de facto* unfree and unequal. This discrepancy is not an inconsistency of the sort that is examined by internal critique, but a systematic contradiction.

It’s not just that the free labor market fails to live up to certain promises or standards it sets for itself; it is utterly *incapable* of meeting the standards through which it *defines* itself. [...]his is a systematic feature that drives the social formation in question beyond itself. Conceived as a systematic contradiction, it is the source for crises. (Jaeggi in Fraser and Jaeggi 2018: 139. Italics in original.).

Immanent critique homes in on and discloses such processes. Moreover, it initiates and guides processes of transformation that concern the deficient reality (practices and social institutions) as well as the norms that are at stake. Unlike internal critique, immanent critique does not aim to reconstitute accepted norms and ideals in practices but seeks to transform a situation that is ridden by systemic contradictions and crises into something new that is better able to respond to the problems at hand (Jaeggi 2014: 295). This “something new” can require the transformation of an existing form of life, as it is the case in the transformation of the form of life ‘family’ in many liberal societies from the nuclear family with married heterosexual parents into a more pluralistic form of life that includes, for instance, patchwork families, and same-sex couples with their children. But it can also require the abolishment of the object of critique, if it turns out that it can no longer provide solutions for a particular problem, either for pragmatic-technical or for moral reasons.

So what is the form of life that Saba Mahmood critically examines in her work? Since I am especially interested in the importance of Mahmood's legacy for liberal egalitarian approaches to religious difference, here, I will focus on her critique of secularism. "Conventional accounts" of secularism, as Mahmood calls them (Mahmood 2016a: 2), construe political secularism as mode of political governance that aims at the realization of two major principles: equality of respect, and freedom of conscience and religion.⁵ Seen from that perspective, conventional political secularism can be seen as solution to problems arising from religious diversity, and related to that, conflicting normative claims concerning public and political matters such as gender relations, food production, social policy, and so forth. Mahmood phrases this aspiration of political secularism very elegantly, and ascribes it to the right to religious liberty as one of its key principles:

Enshrined in national constitutions and international laws and treaties, the right to religious liberty promises to ensure two stable goods: (1) the ability to choose one's religion freely without coercion by the state, church, or other institutions; and (2) the creation of a polity in which one's economic, civil, legal, or political status is unaffected by one's religious beliefs.

MAHMOOD 2012: 418

To put it in terms of Rahel Jaeggi's project, secularism is – or is meant to be – an instance of problem-solving, and the problems to which it responds are related to challenges resulting from religious difference. But is secularism also a form of life in Jaeggi's sense? Is not political secularism a 'thin' political principle rather than a "bundle of social practices" and "their institutional manifestations and materializations" (Jaeggi 2015: 16), and is not the very point of secularism that it allows people to develop and inhabit a diversity of forms of life? Together with other scholars from the field of secular studies (see, e.g., Asad 2003; Scott 2010; Scott 2018; Taylor 2007), Mahmood rejects such a minimalist formulation of secularism, and argues that secularism also "entails fundamental shifts in conceptions of self, time, space, ethics, and morality, as well as a

5 To make the realization of principles like equality of respect and freedom of conscience and religion possible, political philosophers suggest the separation of religious authority and political power on the one hand, and state neutrality, or a respectful non-identification of the state with religion on the other hand. For the normative relations between equality of respect, freedom of conscience, separation and religion and state and state neutrality or respectful non-identification see, for example, Maclure and Taylor 2011, and Bielefeldt 2012.

reorganization of social, political, and religious life.” (Mahmood 2016a: 3). The comprehensive character is demonstrated in Mahmood’s distinction between secularity and political secularism as “two distinct, albeit related, dimensions of the secular” (Mahmood 2016a: 3). Political secularism denotes a specific form of political governance, and “the modern state’s relationship to, and regulation of religion,” while secularity “refers to the set of concepts, norms, sensibilities, and dispositions that characterize secular societies and subjectivities.” (Mahmood 2016a: 3).⁶ Both come together in specific social practices and their institutional materializations, which qualifies secularism as a form of life in Rahel Jaeggi’s sense. Concepts, practices, and social institutions that Mahmood identifies as entailed in and shaped by secularism include a belief-centered notion of religion as set of propositions to which individuals give assent (see, e.g., Mahmood 2009a; Mahmood 2010), a specific religious subjectivity that places people into a critical-reflective distance to their religion, and that instills corresponding reading practices of texts as well as images (see, e.g., Mahmood 2006; Mahmood 2009a). Furthermore, it is connected with a concept of freedom of religion that is based on the distinction between private religious belief (*forum internum*) and public manifestations of religion (*forum externum*) (see, e.g., Mahmood and Danchin 2014; Mahmood 2016a).

Mahmood’s project of a critique of secularism uncovers the different components and dimensions of both political secularism and secularity, and examines whether and to what extent political secularism actually succeeds as an “instance of problem-solving” with regard to religious diversity and the stated aim of conventional accounts of political secularism to achieve freedom and equality. Hence, just as Rahel Jaeggi in her work on an immanent critique of forms of life, Mahmood does not assess secularism from a perspective that is external to the object of critique, for instance a political theology. Rather, she takes as measures of critique the normative principles and political aspirations of secularism itself, and she treats “the normative claims of a given system [i.e. secularism, ChrB] as the grounds for assessing its superiority.” (Mahmood 2016a: 21).⁷ Mahmood’s project is an instance of immanent rather than internal

6 Following Talal Asad, Mahmood conceptualizes political secularism also as “the modern state’s power to reorganize substantive features of religious life, stipulating what religion is or ought to be, assigning its proper content, and disseminating concomitant subjectivities, ethical frameworks, and quotidian practices.” (Mahmood 2016a: 3; see Asad 2006). Although this definition can be a result of a critical examination, it is less suited as a starting point of a critique of secularism.

7 Cécile Laborde acknowledges this and points out that “Saba Mahmood is one of the few critics to explicitly recognize the internal normative potential of liberal secularism.” (Laborde 2017: 248). Webb Keane rightly points out that Mahmood took on perspectives of other

critique (see above), because it includes the measures of critique – the concepts, normative principles, and expectations that characterize secularism – into the object of critique, and uncovers deep-seated normative tensions or even contradictions of secularism as social order and form of life.

One of the fundamental tensions that she identifies as problematic and hardly reconcilable with the promise of political secularism concerns the two seemingly contradictory dimensions of political secularism: on the one hand it represents the principle of state neutrality, and related to this the promise of freedom, but on the other hand it also entails the “reordering and remaking of religious life [...] in accord with specific norms, themselves foreign to the life of the religions and peoples it organizes.” (Mahmood 2016a: 21).⁸ Together with conceptual biases in the notion of religion and religious liberty (privileging belief over embodied practices), Mahmood argues, the regulatory impulse of secularism puts minority religions in disadvantageous positions. Moreover, as Mahmood demonstrates in her contribution to the debate about the Muhammad cartoons published first by a Danish newspaper, institutions

people “not just to understand them, but also in the service of a cultural, or moral critique of one’s own society, even one’s own values” and calls this an “ethic of self-displacement or self-parochialization.” (Keane 2018). My argument that Mahmood’s critique of secularism is an instance of *immanent* critique emphasizes, however, that the normative sources of this critical project are not taken from some entity that is separate from secularism. The aspect of self-parochialisation in Mahmood’s project has a primarily hermeneutic function, and no justificatory force. Keane seems to concur with this when he writes: “[T]his ethic [of self-displacement or self-parochialization] engages with alternative visions of political life, social well-being, and human flourishing – without necessarily advocating them – as affording positions from which to see things in a new light.” (Keane 2018).

- 8 Earlier in *Religious Difference in a Secular Age*, Mahmood describes a “*generative* contradiction” that she ascribes to “the state’s sovereign power to define and regulate religious life” (Mahmood 2016a: 3. *Emphasis in Original*). She identifies this “contradiction” in the liberal state’s claim to maintain a separation between religion and state on the one hand, and the state’s regulation of many aspects of religions, which according to Mahmood contravenes the first claim. (Mahmood 2016a: 4). One could ask, however, whether or in what sense the phenomenon to which Mahmood refers as generative contradiction, actually is a *contradiction*, and what the claims or principles are that are said to contradict each other. For freedom of religion is, as any other right, not absolute and not without limits, and although defining religion and the limits of religious freedom for political purposes is a difficult problem, it does not *contradict* political liberalism and political secularism, but such conceptual (and legal) decisions require to be carefully justified. Whilst Mahmood argues that this cannot be achieved, and argues that her critique demonstrates that there are conceptual reasons for the failure of political secularism to deliver on the promise of freedom and equality, responses to her work from, amongst others, Jean Cohen, Christian Joppke, and Cécile Laborde show that the jury is still out on these matters.

informed by secular notions of religion and religious subjectivity cannot adequately understand and respond to specific forms of moral injury. This is because the sense of moral injury that some Muslims suffered in view of the publication of the cartoons emanated from an embodied form of religion and an assimilative relationship to Muhammad, whilst secular-liberal approaches to blasphemy and other forms of offensive speech operate with a belief-centered understanding of religion and conceptualize Muslims' relationship to Muhammad in terms of communication and representation (see Mahmood 2009a).⁹ This mismatch between basic assumptions, religious subjectivities and forms of moral injury, Mahmood argues, required Muslims to translate their religious grievance and political claims into majoritarian conceptions of blasphemy or harm rooted in race and ethnicity.¹⁰ Their specifically religious pain, however, was rendered unintelligible, which demonstrates the inability of political secularism to create a polity in which claims that are based on different forms of religion can equally be understood, let alone accommodated. In other words, Saba Mahmood diagnoses the failure of the form of life of secularism as an instance of problem-solving with regard to religious difference. Since her project is primarily a critique of secularism, it would perhaps be inadequate to expect her to also provide a solution, or an alternative to political secularism. However, as I already mentioned at the beginning of this essay, Mahmood hints at a particular direction, and points at approaches that tie in with "ethical" sensibilities as promising perhaps not a full solution, but at least an amelioration of religious inequality.

9 For the (sometimes critical) reception of Mahmood's analysis of the kind of moral injury that some Muslims felt in view of the Danish Muhammad cartoons see, for instance, Abbas 2014: 100–111; Baumgartner 2013; Enayat 2017: 65–75; Jakobsen 2015; March 2011.

10 Mahmood 2009a; Mahmood 2016a: 2010–2011. Mahmood is not always clear as to the scope of her argument; the empirical data on which her argument is based is from her fieldwork in Egypt and concerns a limited number of pious Muslims. Accordingly, she presents her explanation as one facet of the larger controversy in her original contribution, and emphasizes this in her reply to Judith Butler's response to her analysis: "The analysis I offer in this essay, for example, of the kind of moral injury at stake in the Danish cartoon affair, is one understanding among others of how a Muslim relates to the personage of Muhammad and is not coterminous with what might be called 'Islamic culture.'" (Mahmood 2009b: 147). In *Religious Difference in a Secular Age*, however, she seems to suggest that her interpretation provides "the" adequate explanation of the cartoon controversy in Europe: "... what was actually [!] a conflict between incommensurable ways of relating to religious icons, exemplary figures, and semiotic signs quickly dissolved into a legal contestation over the right to freedom of speech and the right to religious liberty." (Mahmood 2016a: 210). For critique on that point see March 2011.

Mahmood suggests such an ethical approach very explicitly at the end of her analysis of the specific moral injury that some pious Muslims felt in view of the publication of the Muhammad cartoons. There she voices skepticism regarding the ability of political secularism and the modern state to ameliorate religious inequality; instead, she suggests a larger transformation of the ethical sensibilities of the majority population in Europe that undergird the practices of secular law (Mahmood 2009a: 89; see also Mahmood 2009b: 148–149). In a similar vein, she concludes her book *Religious Difference in a Secular Age* by suggesting that “the ideal of interfaith equality might require not the bracketing of religious differences, but their *ethical* thematization as a necessary risk when the conceptual and political resources of the state have proved inadequate to the challenge this ideal sets before us.” (Mahmood 2016a: 213. Emphasis in original.) Mahmood does not specify in detail what such an approach that includes an ethical thematization as opposed to or complementing state-political approaches could look like, and the question of what else, if not political secularism, could provide promising solutions for issues of religious difference remains unanswered.

In the remainder of this article I want to sketch some components of such an answer and indicate how liberal egalitarian political philosophies of religious difference could learn and benefit from Saba Mahmood’s critique of secularism. For this I want to explore an issue that illustrates the importance of a broadening of political philosophical approaches to religious difference, and a conceptualization of secularism as form of life, thus including political secularism as well as secularity: the issue of some pious subjects’ refusal to shake hands with someone of the opposite sex. Although my considerations about the handshake-issue do not directly address ethical sensibilities as Mahmood presents them as underlying, for instance, the concept of public order and its deployment in decisions of the European Court of Human Rights (Mahmood 2009b: 149; Mahmood and Danchin 2014; Mahmood 2016a: 167–180), exploring the issue of the handshake in the context of the European workplace will provide the background for my concluding remarks about liberal egalitarian political philosophical approaches to religious difference after Saba Mahmood.

2 (Not) Shaking Hands in Circumstances of Religious Difference

In recent years a number of court cases and disciplinary actions have caught the attention of the European public that concerned religious people, mostly Muslims but in some instances also orthodox Jews, who refused to shake hands

with people of the opposite sex.¹¹ In European countries only a very small minority of men and women engage in this practice, but in some cases people who for religious reasons refused to shake hands with a person of the opposite sex were suspended from their jobs as teachers, or submitted to harsh public criticism and accused of rejecting fundamental values of democratic societies such as gender equality. Unlike typical cases of religious accommodation such as ritual slaughter, or the consumption of psychoactive substances like peyote and ayahuasca in religious rituals, the handshake-issue is not about exemptions from existing laws; there is no general legal obligation to shake hands with both men and women.¹² However, the fact that people were suspended and lost their jobs because their religion prevented them from shaking hands with people of the opposite sex indicates that something significant is at stake for all the people and institutions involved. Before I go into reasons why that handshake refusal is considered problematic by members of the majority and even in legal proceedings, let my first address why some Muslims do not shake hands with people of the opposite sex.

According to Islamic law, sexual relations are only allowed within the context of a marriage, and legal schools argue that social interactions between men and women who are unrelated by immediate kin ties are potential sources of social disorder and discord (*fitna*) (see Mahmood 2005: 106–113; Bucar 2012: 54–58). To protect proper relationships between men and women, and through this the social order, Islamic law includes a complex set of regulations concerning privacy and modesty. Part of these regulations is the provision that people of the opposite sex must not have immediate skin-to-skin contact, and hence must refrain from shaking hands (see Katz 2017; Krawietz 2013; and Schlatmann 2016: 170). These modesty regulations do not apply in the context

11 For examples in the Netherlands, Belgium, and the UK see Alidadi 2017: 213–228. The list of other European countries in which such debates took place includes Denmark, France, Germany, Sweden, Switzerland. I examine the issue of the handshake in much greater detail in Baumgartner forthcoming 2019, where I also provide a normative analysis, which is not included in the present article.

12 Another characteristic that distinguishes the refusal to shake hands with people of the opposite sex from cases like ritual slaughter, circumcision of young boys, or the wearing of religious headgear (e.g. Islamic veiling or Sikh turbans) is that the handshake is a direct social interaction with others. The handshake-issue concerns what is construed by members of the majority in society as shared greeting gesture (see below). Accordingly, the public influence of a modification of this gesture by some people in their social interactions goes beyond the influence of, for instance, a practice like the wearing of a headscarf that does not immediately affect the conduct of women who do not want to wear headscarves.

of the family (*mahram*),¹³ and also not in interactions with children. Here, it is assumed that no illicit sexual relations and interactions will be provoked, for instance, by touching the hand of somebody of the opposite sex. This relational aspect is very important for an adequate understanding of the refusal to shake hands; the reason why some Muslims refrain from shaking hands with someone of the opposite sex is not that they would consider those people somehow inferior, impure, or not worthy of a handshake, and is not related to the religion of the person whose hands is rejected – the modesty regulations apply to social interactions between Muslims as well.

The specific rationale behind the decision of some pious Muslims not to shake hands with people of the opposite sex has hardly been noticed in public controversies and court cases about the handshake-issue, and certainly not as something to be considerate of. Why has the unwillingness of a small number of people to shake hands with someone of the opposite sex become such a problem for members of the social majority that cases were brought to court, and some people were even suspended from their jobs because of their refusal to shake hands? In legal procedures as well as in public debates two arguments are especially influential. The first argument is based on an understanding of the handshake as a token of equal respect. Because of this social meaning of the handshake, and because of the related, but separate meaning of the active refusal to shake hands with somebody,¹⁴ the refusal to shake hands with others because they are of the opposite sex is often understood as rejection of gender equality, quite independently of the actual motives and intentions of the person who does not shake hands. A second argument adds to this a further assertion, namely that shaking hands with both men and women is an essential part of the 'national culture' of, for instance, Germany or the Netherlands. People

13 The Arabic term *mahram* refers to the immediate family; members of this group cannot marry, and hence cannot have licit sexual relations. A women's male *mahram* include her father, father-in-law, sons, stepsons, brothers, and nephews (cf. Sectorsky 2010, 190).

14 People can and actually do use the refusal to shake hands to communicate to the person who offers a handshake and to possible witnesses that they disapprove of something the other person did or what the person stands for. An illustrative example of this is an event in 1966 when the then sitting President of the Federal Republic of Germany Heinrich Lübke visited the Togolese Republic; Lübke did not want to shake hands with the President of Togo Gnassingbé Eyadéma, because Eyadéma was said to have contracted a killer to eliminate his predecessor Sylvanus Olympio who was a friend of Lübke. He knew, however, that an open refusal to shake hands with President Eyadéma would have been understood as straightforward insult, so he encased his right arm with a plaster cast, which allowed him to avoid the symbolic gesture of the handshake with Eyadéma without causing a diplomatic scandal.

who refuse to engage in this practice publicly demonstrate, so the argument claims, that they do not really belong to the society in question. Proponents of this ‘argument from national culture’ claim that because of its special relationship to national culture, alternative greeting gestures that unambiguously display equal respect (e.g. a little bow) are not functionally equivalent to the handshake, and since public institutions such as schools are prominent places of manifestation and transmission of national culture, the argument says, shaking hands should be compulsory within such institutions.¹⁵

In such contexts, being a practicing Muslim who wants to fully comply with Islamic modesty regulations, including the prohibition of direct skin-to-skin contact is a contested identity. Anthropologist Annemeik Schlatmann even reports from her fieldwork in the Netherlands that “the western custom of handshaking when greeting each other is by far the one that disturbs the peace of mind of the Shi’i Muslims I interviewed most. Shaking hands is a daily recurring, inevitable personal confrontation between Islamic norms and western social practices.” (Schlatmann 2016: 169–170). Consequently, only very few Muslims refuse to shake hands with people of the opposite sex strictly and without exception. Many others try to negotiate between their religious commitments and the social requirement of the handshake – they shake hands when necessary, but avoid it if possible and make sure that this process of negotiation does not negatively affect their religious commitments and sensibilities. Anthropological research in this field (especially with regard to the situation in Belgium and the Netherlands) identifies several motives that prompt such negotiation processes; I want to mention two, here.

First, with respect to social mobility, anthropologist Deniz Batum shows in her research on Turkish-Dutch Muslim students that the practice of not-handshaking plays an important role in the ethical formation of some Muslims, and in boundary maintenance with the opposite sex (Batum 2016: 969). In this context, and within their own religious community, non-handshaking has positive symbolic value, and “both religious men and women acknowledge that respect and consideration for each other entails non-contact and social distance, as they both have been raised with the same values of modesty in gendered interaction.” (Batum 2016: 973.) This is different, however, in social

15 The argument from national culture was powerfully present in recent election campaigns in Germany and the Netherlands. In 2017, for instance, both the then sitting Federal Minister of the Interior Thomas de Maizière and the conservative Christian Social Union claimed that the handshake is part of a *German Leitkultur* with which, they said, all people in Germany should comply. I provide a more comprehensive reconstruction and normative analysis of such arguments in Baumgartner forthcoming 2019.

interactions with non-Muslims; here, the handshake has a different meaning; it is experienced as “a social obligation, refusing to do so is rude rather than an ethical choice of self-making.” (Batum 2016: 977.) Moreover, Batum’s interlocutors experienced the willingness to shake hands with both men and women as crucial for full social participation, and as key to the competitive Dutch job market and to upward social mobility (Batum 2016: 976–977). Because of this, they developed a flexible approach: although they continued to consider handshaking as wrongful practice, they recognized the significant social meaning of the handshake in the Netherlands, and in some social contexts – usually related to employment – they did shake hands, at least to start with in getting to know someone, for instance to qualify for a job in the eyes of their non-Muslim fellow citizens. Similar practices have been identified by social scientists Nadia Fadil (2009; concerning Belgian Maghrebi Muslim women), and Annemeik Schlatmann (2016; concerning the Shi’i Muslim youth in the Netherlands).

Second, with respect to the representation of Islam in society and social piece, processes of negotiation between religious demands and social norms can be related to existing negative stereotypes of Muslims and Islam as cultural ‘other’ and alien to liberal democracy and ‘Western’ modernity. Annemeik Schlatmann’s research demonstrates how such stereotypes can motivate, and sometimes force, Muslims to be flexible with regard to the handshake in order “to counter the representation of Islam as a hostile religion.” (Schlatmann 2016: 178. For Muslims’ efforts to counter public images of Islam as a violent religion see Es 2018.) To represent Islam as a peaceful and tolerant religion, and to avoid harming public image of the Muslim community, some of Schlatmann’s interlocutors decided to stop refusing to shake hands with people of the opposite sex, although they considered this as sinful (Schlatmann 2016: 173–174; see also Batum 2016: 97). This situation constitutes a social-religious predicament in which practising Muslims have to decide whether they should be ‘good Muslims’ – in a religious sense – and comply with Islamic modesty regulations even if this makes them suspicious in the eyes of non-Muslim citizens and harms the image of Islam, or, whether they should be ‘good Muslims’ – in a social sense – and adapt to the customs of the non-Muslim majority in society even if this demands that they transgress their religious codes or rules (see Schlatmann 2016: 174).

Nadia Fadil describes a similar case that is less explicitly related to the public image of Islam, and more focused on the avoidance of social unrest in general. One of Fadil’s female interlocutors decided to shake hands with men in situations where a refusal would cause “some sort of *fitna*”, as she phrases it. “And my prime objective is to serve, not to disserve. But I just make sure not to make a habit out of it” (Fadil 2009: 445). Interestingly, the woman uses the Arabic

term *fitna* to explain why she decides not to comply with one of the Islamic modesty regulations – the very same term that provides the rationale of the provision not to shake hands with people of the opposite sex who do not belong to one's *mahram* (see above). “While a diligent application and adherence to Islamic rules generally figures as a way to avoid *fitna*,” Nadia Fadil points out, “an interesting inversion appears here, where not abiding by particular religious conducts becomes a way to achieve this same Islamic virtue.” (Fadil 2009: 446.).

How can we relate the issue of the handshake to Saba Mahmood's critique of secularism and her claim that political secularism fails to deliver on the promise to create a polity where one's economic, social and political status is not influenced by religion? Let me address this in the following section, where I also suggest directions into which liberal egalitarian political philosophies could be developed ‘after Saba Mahmood’.

3 Liberal Political Philosophy of Religious Difference after Saba Mahmood

The handshake-issue demonstrates that challenges related to religious difference are often rooted in social practices, communicative forms, and carriers of social meaning that are located below the level of principles of justice or legal regulations. Accordingly, they are not from the outset matters of state regulation, but concern rather informal social expectations, and sensibilities related to it, and they are closer to secularity in Mahmood's sense than to conventional accounts of political secularism in the form of the separation of religion and the state that prevail in current liberal political philosophies of religious difference. The normative weight that members of majority ascribed in some cases to the practice of shaking hands with both men and women is significant, however, and it can push practicing Muslims to negotiate between their religious commitment to abide by Islamic modesty regulations on the one side, and the social norm to shake hands with both men and women on the other side. Mahmood's work helps us to understand such processes as reordering of religious life in accord with norms that are foreign to the minority religion (see Mahmood 2016a: 21). In contrast to aspirations of liberal egalitarian political thought, such processes do not take place on a level playing field. Rather, secular-majoritarian religious subjectivities (e.g., more belief-centered and individual than embodied and collective) are in a privileged position in processes negotiating the form of social interactions in which people from different religions participate. There may be historical reasons for that, and the relative

inertness of given social practices such as the handshake and their dominant social meaning hamper relatively smooth transformations of such practices. However, this cannot provide grounds for a general obligation to shake hands with both men and women, since this would require an elevation of the social custom of handshaking onto the level of general moral and political principles like gender equality or freedom of religion, which is unjustified (see Scheffler 2007).

The relative inertness of existing cultural practices like the handshake and, resulting from this, possible informal pressures on minority practices are no specific features of liberal egalitarianism (as one could understand Mahmood's critique). Rather, they are challenges to be addressed by liberal egalitarian political philosophies, since what matters for them is that the future of a society and its formal and informal institutions is open, and that all members of society can contribute to shaping the future character of the society on a par with others (see, e.g., Fraser 2009; Scanlon 2003: 190). In many cases this is not primarily a matter of state regulation, and the handshake-issue is an instance that demonstrates this. Cases that result in court procedures are exceptions, and it seems that the rigid form of legal reasoning and decision making does not always support evenhanded solutions, since it threatens to stimulate a stiffening of social and religious practices on both sides that is at least in many cases rather alien to the object under consideration. Outside of the context of legal proceedings people often find balanced solutions that do not place the work of ethical thematization only on the shoulders of the minority.¹⁶ The equal respect that is displayed by the handshake and other greeting gestures would also require, for instance, the majority to listen to members of minorities, and to understand the actual reasons for the refusal of some Muslims to shake hands with people of the opposite sex and its importance in the larger context of Islamic modesty regulations. This suggests practices of "deep equality" (Beaman 2017) where difference is negotiated in flexible ways and without effectively maintaining status quo privileges. Both Nadia Fadil and Annemeik Schlatmann report, for instance, that some of their interlocutors addressed the handshake issue as soon as people knew them a little better, and often employers respected their request not to shake hands with people of the opposite sex, and introduced alternative greeting gestures (Fadil 2009, 444; Schlatmann 2016, 175). The use of alternative greeting gestures that communicate respect just as the handshake does is also suggested by liberal egalitarian philosophical analyses (see Baumgartner 2019, in a qualified sense also Laborde 2017, 211).

16 I want to thank Jean-Michel Landry and Sultan Doughan for inviting me to clarify this point.

The handshake-issue illustrates shortcomings of theories that exclusively focus on formal regulations of religious accommodation, and the necessity of larger transformations of cultural and ethical sensibilities of all people in society for achieving the aims of liberal egalitarian approaches to religious difference. Accordingly, such approaches cannot be limited to political secularism in the sense that they attempt to spell out different dimensions of principles like state neutrality, or the separation between religion and the state. Rather, secularism has to be also approached as a form of life including the social practices, material manifestations, and predominant (religious) subjectivities and expectations that are part of it. To be able to adequately deal with such issues, liberal egalitarian political philosophy needs to address not only institutional, but also attitudinal aspects, and hence the informal politics of social life, as Thomas Scanlon calls it (Scanlon 2003: 190). It is here, I suggest, where answers to the question of what Mahmood's call for an ethical thematization of religious differences actually means, should be sought.

With regard to such a political philosophy of secularism as form of life (as opposed to political secularism in a narrow or conventional sense) it is important to recognize that in liberal democratic societies, and hence in circumstances of religious diversity, such forms of life are inhabited by people with different religions to whom different practices, objects and ideas are especially important, or even constitutive for their self-understanding and religious subjectivity respectively. In such circumstances it is inevitable that people are sometimes disturbed in their relation to traditions, practices and things they care about.¹⁷ This does not disqualify political secularism as mode of governance in circumstances of religious diversity altogether, nor does it show that secularism as form of life fails as instance of problem-solving on a quotidian level – parts of Saba Mahmood's critical anthropology of (political) secularism have been understood as suggesting this. However, to conclude that Mahmood's work is hostile to liberalism in the sense that she would simply reject political philosophies striving for equality and religious freedom is problematic. Rather I suggest that liberal egalitarian political philosophies should learn from Mahmood, be inspired by her critique of secularism, and informed by her insights about the intertwinement of political secularism and secularity.

17 See Andrew March's critical comment on Mahmood's analysis of the moral injury that some Muslims experienced in view of the Danish Muhammad cartoons. March points out that the kind of emotional pain that Mahmood identified and explained through the specific relationship of some Muslims to Muhammad is not specific. "We attach ourselves to all kinds of symbols, figures, persons, and ideas in the assimilative way Mahmood describes." (March 2011: 807–808).

Consequently, liberal egalitarian political philosophy needs to broaden the focus so as to grasp and examine secularism and secularity in all dimensions, including those sensibilities, and commitments to which Mahmood refers as “ethical”. By doing so, it can contribute to societies and forms of life that are inclusive and open for change so that they allow all members of society to actively and effectively contribute to the future development of their society. Only such open social formations can accommodate religious diversity in its various forms, albeit always imperfectly, and never to the extent that it could protect people against irritations and disturbances, and sometimes even not against profound offense. This, I suggest, is a direction into which political philosophical theories of religious diversity can further develop Saba Mahmood’s suggestion to *ethically* thematize religious differences “when the conceptual and political resources of the state have proved inadequate” (Mahmood 2016a: 213). It is not exactly and not immediately the direction that Saba Mahmood proposed. I hope, however, to contribute with my proposal to the development of theories that allow us to craft, perhaps, different, and more evenhanded social practices, and formal and informal social and political institutions for the future.

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