Rosemarie van den Breemer

Governing Cemeteries

State Responses to the New Diversity in The Netherlands, Norway and France

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Abstract

State accommodation of new religious and cultural diversity is typically understood in terms of national models. Authors argue, for instance, that French laïcité, Dutch pillarization, and Norwegian establishment best explain how these countries react to newcomers. This book compares state responses to Muslims burial needs in France, The Netherlands, and Norway, as well as humanists' burial needs in Norway, providing a strikingly different image of societal accommodation.

Van den Breemer shows that policy responses follow distinctive types of logic between the various levels of governance, and that material solution matter as well. While national models do turn up in the discourse of public agents, suggesting large differences between states, in everyday practice these burial agents do much the same.

In a departure from this major finding, van den Breemer argues for a 'two-pronged strategy' in the study of state responses to diversity, one that oscillates between theory development and everyday empirical analysis. On the model and conceptual level, her account deals with the discussion of reified state-church models in the 'religious governance' literature and with the concept of secularism in the research agenda of 'multiple secularisms and secularities.' On the empirical level, she carefully maps out the previously uncharted institutional domain of cemeteries. Thus, the volume outlines a methodologically more coherent research agenda for the comparative study of religion, secularism, society, and state.

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Introduction: The Cemetery as a Site for Studying (New) Diversity

1.1 Meta-Analytic Concerns and a Two-Pronged Approach

How do states respond to situations of new cultural and religious diversity? That question stands high on the public agenda because of the polarization surrounding Muslims, terrorism, and international migration. But scholarly developments as well have added to its relevance. With the demise of the secularization thesis – the idea that religion would simply fade away with the onset of modernity – numerous new and more empirically attuned analytic frameworks have been proposed for the global study of religion and state.

Today, scholars are battling it out over the appropriate concepts for conducting such an analysis in light of the nature of terms like 'religion' and 'secularism' tainted by the history of Western Christianity and colonialism. And, in particular, within a postcolonial and religious studies agenda, scholars have raised concerns about the potentially reifying effects of applying these concepts to societies both within and outside of the 'West.' Behind the attempt to define certain practices as 'religion' or 'secularism' often lie colonial or state-interventionist motives to classify and control.

In this book, I argue that the new, more empirically attuned scholarly approaches to the governance of minorities are often still too abstract; and that the construction of valid theoretical frameworks needs the viewpoint of a concrete fieldwork study. More specifically, I argue that the empirical investigation of 'how states respond to situations of new diversity' should be conducted alongside a discussion of the best theoretical frameworks and concepts for such comparisons. In other words, I propose connecting theory and concept development with everyday analysis.

This argument builds in part on the latest developments in the integration and religious governance literature, where it is similarly suggested that scholarly models of state responses make for poor analytic approaches, unless they take "account of the ways in which government and other public actors view their social worlds (…)" (Bowen: 2012, 354). It is increasingly being recognized that the meaning-giving processes of public actors themselves is central to explaining or describing their actions toward new minorities. Rather than trying to explain such governance through the lens of a national model or a descriptive concept, such as *laïcité*, we must examine how public actors reason and frame their decisions.

Of course, scholars still need scholarly models and concepts to reduce complexity, but they risk reification into stereotypes by adopting overly one-dimensional ones.

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This applies to the work of the individual scholar as well as to metalevel discussions over appropriate concepts for the global study of religion and state.

This attempt to link public actors' reasoning to scholarly modelmaking has made some advances in the literature. However, it still deserves a firmer standing. Furthermore, it requires a broader focus: The discussion over Muslims and minorities is typically addressed in terms of legal regimes or of public reasoning at the official policy-making level: Few studies look at the level of application and everyday municipal practice.[1] Even fewer complement public justification with an investigation into actual material provisions.

And this is where this book makes its most original contribution. As I show in the pages to come, how states respond to new cultural and religious diversity in their public domain depends largely on framing: how public agents frame and see the issue at hand. But I expressively add the need for looking at the material dimension as well.

On a more general level, these scholarly developments and existing lacunas necessitate what I would like to label a 'two-pronged strategy' in the study of state responses to diversity: That is (1) theory and concept development *simultaneously* with (2) an analysis of empirical domain. Such a strategy entails a back-and-forth movement between scholarly concepts and models, on the one hand, and public actors' everyday language and actions, on the other hand.

A strategy such as the one pursued here obliges scholars to provide nuanced accounts of state responses that are not reified one-dimensional models. This requires knowing what *actually happens*. Furthermore, in order to meet the need for developing concepts, such a factual investigation should be amenable to being translated into good scholarly concepts that capture complexity beyond the grand narratives of, for example, 'multiple secularisms' or 'postsecularity' (cf. Bader: 2012a, 5). And, in particular for research interested in 'lived experiences' (e.g., Hurd: 2015; Casanova: 2009), scholarly concepts should be informed by everyday language and practices and not obstruct comparative analysis.

What does this mean concretely? In line with this two-pronged strategy, this book is concerned with the following: (1) On the model and concept level, it deals with the discussion over reified state-church models in the 'religious governance' literature (e.g., Bader: 2007b) and with the concept of secularism within the research agenda of the 'multiple secularisms' (e.g., Asad: 2003, 2018).[2] These are both new and promising, yet conceptually different frameworks for the study of governance

1 Exceptions are Galembert: 2005; Mathieu: 2000; Goodwin/Jasper 2011; Lipsky: 1980.

2 The debate over 'multiple secularizations, secularisms, and secularities' is a rapidly expanding research agenda in the social sciences and humanities, linking a broad range of scholarship through the concept of the secular/secularism/secularities. It is not a coherent framework but rather a research canon. We narrow our discussion of that framework by analyzing one of its main theoretical proponents –

of religious minorities. (2) On the empirical level, the book carefully maps a thus-far uncharted institutional domain. I compare how burial professionals in The Netherlands, Norway, and France respond to the new challenge of providing for Islamic sections in their cemeteries.

There are several significant outcomes of this two-pronged strategy. One is empirical and methodological in nature, suggesting what such an analysis should investigate. In this book, I show how the standard models for understanding state-church relations – *laïcité*, pillarization, and establishment – from these three countries and their inferred way of dealing with new minorities describe more legal differences than material practice. At times, this can be hard to see, and the reason why lies in these national models still having relevance as discursive narratives. These legacies are active in how local burial agents interpret the issue.

So, indeed, we need to adopt a scholarly turn to the public actor's discourse in order to understand how states govern new minorities. But if scholars look *only* at discourse, as is the new trend, they risk reproducing these standard models as explanations of solutions provided. What investigating everyday accommodation in the graveyards shows is that we need to look at the *material* dimension as well. This empirical finding has implications for how we configure the methodological and theoretical level.

Another outcome of the two-pronged strategy is methodological and metatheoretical in nature. By interrogating the usage of secularism in the public actor's discourse, this book finds that secularism is not a substantive and action-guiding value for burial agents in The Netherlands and Norway; nor is it a framework of reference or a sensibility to which burial agents relate in their governance of minorities' needs. Yet, in the French context *it is all of that*. Connecting these empirical findings to T. Asad's influential research framework within the multiple secularism agenda, I show how his framework cannot account for these findings because it lacks a coherent methodology for comparison.

In that example, the two-pronged strategy connecting theory/concept development with an analysis of everyday accommodations results in a methodological discovery. From that discovery, I further develop a metalevel argument about the nonviability of 'secularism' as a structuring term for comparative analysis. This partially supports calls to abandon this term as a basis for an international research agenda, most forcefully argued by the philosopher and sociologist V. Bader (2007a, 2009b).

---

the work of Asad – and by shortly discussing the related analytic frameworks of 'religion-making' (Mandair/Dressler: 2011) and 'moving beyond religion' (Hurd: 2015); see Section 2.3.4.

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Let us now turn to the book's more precise questions, structure, and layout. A broad thematic like that of state responses to diversity must necessarily be narrowed down. I limit it, as mentioned, to a study of cemeteries. The book looks at responses to two groups of burial challengers whose needs can disrupt the symbolic or material dimensions of existing regulations. This involves Muslims in all three countries as well as humanists in Norway. These groups provide new claims of cultural and religious diversity by their demands for special burial accommodations.

The newness of Muslim demands comes from a change in migratory patterns as they increasingly wish to be buried in the land of residence instead of repatriation. The newness of humanist burial needs in Norway occurs because of internal societal changes. In light of an increasingly secularized and pluralized Norwegian population, today there is a demand for a neutral institution governing the cemeteries instead the Church of Norway, which until recently was a state church and now is a 'folk' church.

Thus, I ask the following: (1) What are the institutional and discursive policy responses to Muslim and humanist burial needs, across countries and over time? Which national similarities and differences do we observe? By 'institutional' I mean the material/legal provisions in place,[3] and by 'discursive' I ask *why* burial agents accommodate and *how* they, or relevant public documents, justify and explain the solutions provided. How do these national or local agents reason and make their decisions?

In an even further specification, the book investigates the role of ideas about secularism or the historical experiences of a particular country in dealing with minorities in the responses of contemporary agents. Thus, I also ask: (2) What role does a state-organized religion legacy or national repertoire play in determining burial outcomes? (3) How is secularism used and argued for?

These research questions form a common thread in the book and are further specified under Section 1.2. Both the Muslim and humanist cases are appropriate for addressing these research questions because existing templates for dealing with religion or cultural diversity are being upended in the face of new challenges. In light of contestation, legal formal frameworks (e.g., state-church relations, burial regimes) or ideas about secularism have to be reinterpreted to 'make sense.'

1.1.1 Cemeteries and the Islamic and Humanist Burial Challenge

By orienting our approach to state responses to diversity along a first theme, I note that, for most readers, cemeteries probably bring to mind primarily death

3 Material solutions include the physical form: Is there a separate entrance? Do bushes surround the section? Is it visible as a separate section?

and sadness. As archaic remnants of the past, they may be of great interest to the historian, the archaeologist, and perhaps the undertaker; yet for most people, they contain hardly any relevance to the living, or indeed politics, today. This could not be further from the truth! Graveyards are relevant to manifold contemporary questions concerning religious and cultural diversity as regulatory domains where the relationship between state and religion is negotiated (sometimes violently). Furthermore, they highlight the fascinating tensions between ideology and praxis because their concrete materiality reflects the mores and conditions of times past.

A prime historical example is the battle over cemeteries waged between the French state and the Catholic Church. Under the Ancien Régime (14th–18th century), cemeteries were church territory. Burial was characterized by great differences in rank and class: Mass graves served the poor, and burial in the church was reserved for the affluent. Jewish and Protestant minorities were prohibited from being buried in the churches' sacred ground and instead relegated to a separate corner outside the churchyard.

With the French Revolution, all this changed. As part of a larger battle between the Catholic Church and French Republicans over the identity and future of the country, the Revolutionaries called for the abandonment of all class and religious privileges in the graveyard. Birth, marriage, and death, too, they argued, from now on were to be arranged by the State. As one central politician at the time formulated it:

> This democratization of death, as I propose it, should complement political democracy, … (Boissy d'Anglas: 1793, 105, quoted in Van Helsdingen:1997, 35).[4]

Catholics and the counterrevolutionaries, on the other hand, demanded the religious freedom to arrange cemeteries and funerals to their own standards. Cemeteries, in other words, provide sharp lenses through which we can study larger battles over societal power and change. And they impinge on state-organized religion relations because of their historical location in, or overlap with, the realm of the churches.[5]

Even today, state authorities and minorities have overlapping or conflicting interests in matters pertaining to death. The state wants to provide for a decent burial for its citizens, independent of their religious or life orientation. Cultural or religious communities are keen on providing their members a dignified burial.

---

4 "Cette démocratie de la mort, telle que je la propose, doit être le complément nécessaire de la démocratie politique (…)," my translation.

5 In most countries, processes of secularization and welfare-state expansion brought cemeteries under the tutelage of the state. Yet, we see remnants of this heritage, for example, in the terms 'churchyard,' 'kirkegård' (Norwegian), 'kerkhof' (Dutch), or 'cimetière' (French).

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Death is *the* moment in which a religious or secular meaning to life is most urgently felt.

Let us look at our first set of challengers: Muslims bring a new facet to this tension between state interest and religious groups. Scholarship on Islam in Europe reveals that, since the 1980's, this increasing and continuing growth of the Muslim population has led to the need for respective provisions in hospitals, prayerrooms, houses of worship, etc.[6] Relatively new – yet scarcely addressed[7] – in this line of institutional demands is the need for proper burial facilities.[8] Until recently, most Muslims opted for repatriation of the body to the country of origin or their ancestral origin. Repatriation rates in The Netherlands, for example, are estimated to lie at around 90%, for France the rate is 80%, and for Norway 40–50%.[9]

Yet, the numbers are changing. With a shift in perception from Muslims being temporal sojourners to permanent residents, European countries are increasingly witnessing 'a last stage' of a migratory pattern. Muslim citizens from a diverse range of backgrounds not only live, work, and die in the 'new land,' but also are increasingly choosing to be buried there. Muslim burial customs can conflict with national or local regulations as Islam requires burial within 24 hours, facing Mecca and without a coffin. This requires a set of public goods like Muslim cemeteries, or Muslim parcels within municipal cemeteries, speedy procedures as well as washing facilities.

As to the second challenger, only in Norway is the topic of humanistic burial relevant. Humanists here represent a substantially sized minority, equal in numbers to Muslims. Their burial needs are largely formulated negatively, by articulating what they do *not* want. Politically, they object to the fact that the Church of Norway owns – and since 1996 has administered – all public graveyards. Furthermore, there is a clear lack of neutral ceremonial rooms for use by nonaffiliated citizens for their burial ceremonies.

Compared to Muslims in the other countries, the annual number of humanistic burials is very small. Yet, this selection is analytically justified because, across national contexts, both groups challenge aspects of the symbolic burial order. In the

6 For a comprehensive overview of studies on the institutionalization of Islam in Western Europe, see Rath/Buijs: 2002; Maussen: 2007.

7 Exceptions may be found within the integration literature. See Shadid/Van Koningsveld: 1991; Ersanilli/Koopmans: 2009; Klaussen: 2005; Bowen: 2007; Koopmans/Statham/Giugni/Passy: 2005; Warner: 2009; Pfaff-Czarnecka: 2004.

8 This demand is relatively new. Both The Netherlands and France have had Muslim parcels on public cemeteries since the 1970s. However, since 2000 the demand has increased in all settings.

9 These estimates are very provisional. Exact numbers are difficult, if not impossible, to obtain. I rely on information from interviews with burial agents and public reports. Furthermore, the numbers are different for different populations. For example, Dutch Surinamese Muslims choose burial in The Netherlands, whereas Turkish and Moroccan Muslims almost all repatriate (cf. Dessing: 2001).

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Norwegian case, it serves the additional analytic purpose of comparing responses to different minorities within the same state.[10] The 'newness' of humanist demands stems from their relatively recent arrival on the scene of religious and secular groups.[11] The salience of their demands lies not in external events (like migration), but arises from larger societal transformations within Norwegian society.

In order to map how these countries respond to these situations of (new) religious and cultural diversity, this book takes a multilevel discursive governance approach. I focus on how governments at all levels actually, and not just legally, treat minorities. Furthermore, I study the *everyday* governance of religious and cultural diversity in the graveyards.

The latter entails three aspects: In terms of policy, I look at the application and the consequences rather than the mere formulation. This has the benefit of probing below the surface of formal and elite policy-making.[12] Second, in order to understand what solutions burial agents propose toward Muslims and humanist burial needs – and *why* – I focus on the discursive quality of their answers. I look at the arguments they offer, the framework in which they understand the issue at stake, their use of terminology, and their application of (legal) regulations. Third, I situate my investigation in the context of the everyday world[13] of the responsible administrators. That means describing as exactly as possible how the burial agents experience their decision-making process in the day-to-day situation. I thereby pay special attention to the more implicit ideas or sensibilities (the self-evident presumptions) that guide their choice of institutional solutions. This involves charting possible emotions (like hesitations), material circumstances, or – for example – existing power relations (e.g., the administrators place in an existing hierarchy) that bear on the agents' reasoning. "Epistemologically, … we should not invent the viewpoint of the actor, and should only attribute to actors ideas about the world they actually hold, if we want to understand their actions, reasons and motives" (Becker: 1996, 60).

10 Initially, I had planned to compare the position of the humanists in the burial regulations and practices of the other two countries, but this proved to be moot.

11 The foundation of the humanist organization (HEF) dates to 1956.

12 For studies that make a similar point, see Lipsky: 1980; Mathieu: 2000; Goodwin/Jasper: 2011; Bertossi/Duyvendak: 2012.

13 By the term 'everyday world,' I refer to the social praxis, circumstances, and experiences of burial agents in the local contexts. Because relevant decision-makers vary among national contexts, such a description does not pertain to that of one type of professional. Rather, I chart the different considerations, experiences, and material situations. I omit the everyday world of legislators.

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1.2 Research Questions and Their Operationalization in The Field

To illustrate the relevance of the latter epistemological point – and as an upshot to a further specification of the main research questions – I would like to recount a short anecdote that may also make tangible for the reader how the two registers of analysis in this study – the (1) theoretical/meta-analytic and the (2) concrete/everyday world investigation – became so inherently connected.

In my first round of field research in France in 2009, I worked with a research question formulated in the spirit of Asad. I asked: "How is secularism applied and argued for?" For readers unfamiliar with Asad, this famous anthropologist influenced a broad range of scholars with his *Genealogy of Religions* (1993), *Formations of the Secular* (2003), and his latest book *Secular Translations* (2018).

The key feature of Asad's work is that he applies a genealogical analysis of power to categories like 'religion' and 'secularism.' Aligning himself with studies in the tradition of Michel Foucault and Edward Said, secularism for him designates a discourse: a hegemonic narrative of Western modernity. And rather than investigate what religion or secularism *is,* these authors investigate the category usage inherent to nation-state practices. What and whom we call 'religious' in the West is related to history and power structures. Furthermore, studying the application of these categories requires looking not only at ideologies, but also at modern ways of living and practices. Asad refers to 'secular' sensibilities, for example, regarding pain and agency, which already foreclose certain possibilities of citizen actions and state practices.[14]

What binds Asad's work to a larger postcolonial agenda and an agenda of critical religious studies is the shared suspicion of the idea of religion as a universal category.[15] In these rapidly growing fields, scholars highlight the process of reification that occurs, for example, when states use these categories to demarcate 'good religion' from 'bad religion' (cf. Hurd: 2015). Alternatively, they show how these archetypical Western concepts derive their normative force and self-evident status from a history of colonialism. Scholars chart how "religion-making" (Dressler/Mandair: 2011) is used in colonial projects to assess and govern its subjects (Van der Veer: 2001). They show how the discourse of world religions served to carve out a European identity vis-à-vis colonial others (Masuzawa: 2005).

14 For example, the reason why religious arguments in the public debate hold no sway cannot be explained by content but needs 'secular' sensibilities. Certain arguments can be 'made, but not heard.'

15 There is a *vast* literature available addressing this. W. Smith's 1962 essay 'The Meaning and End of Religion' was one of the first. Further, see J. Smith: 1982; Asad: 1993, 2003; Cavanaugh: 2009; Fitzgerald: 2000, 2007; McCutcheon: 1997; King: 2011; Masuzawa: 2005; Tweed: 2005. For skepticism to religious freedom as a category, see Sullivan: 2005; Hurd: 2015.

Their common scholarly presumption is that categories like secularism or religion are *always* political and discursive constructions, used to further particular interests. This makes them hesitant to provide clear definitions and conceptual boundaries (which would imply taking a firm stance). Rather than investigate what secularism *is,* this strand of scholarship thus aims to leave the category open and to look at the usage that accompanies practice, that is, "how secularism is used and argued for."

This approach made initial sense for the project on which this book is based. In the European public debate I am involved in, Muslims are often juxtaposed as 'the other' of secularism. For example, in conflicts concerning head scarves, mosque building, and halal slaughtering, the 'religiosity' of Muslims was often constructed as incommensurable with Western secular identity and institutions. The initial thought was thus: Might different national/cultural forms or usages of secularism play a role in the responses of burial agents?

This thought worked well for France: To the question "How do you use and argue for secularism?" followed a rich and diverse answer concerning how burial agents perceived *laïcité*[16] to determine their decisions about Islamic burial solutions.

In Norway and The Netherlands, on the other hand, the answer faltered: Decision-makers in these countries and municipalities did not talk about secularism or secularity when justifying the solutions chosen. They were, in fact, at a loss when I asked about the relevance of secularism in their decision-making process. In other words, I had no "usage of secularism" to hold my investigation in place. Rather, I had to frame all that I observed being done or argued toward Muslims or humanists as part of secularism. That made both groups the equivalent of religion – and it obscured the multiplicity of reasons that decision-makers had for choosing a particular solution, which were often rather pragmatic or had nothing to do with religion at all. Alternatively, by leaving my intended inductive approach, I had to pick a (normative) yardstick and declare what parts of reasoning fell within or outside of the category. Yet, this approach contrasted with the Asadian predicament of avoiding definitions and avoiding taking a normative stance ("leave the category open").

Thus, the following dilemma arose: How to resolve the tension between the declared instability of the category of religion or secularism and, yet, the need for stable scholarly categories in order to compare (or inductively study) my subject matter? How to compare contingent contexts when the subject matter of the categories of religion and secular is *also* contingent?

In short, I ended up broadening the question of secularism to one about different responses to diversity (both religious and cultural) within a religious governance framework. The key feature of a (religious) governance approach (see Section 2.3)

16 The French translation of 'secularity.'

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is that it asks: "What happens?" – in our case concerning the burial needs of these groups. This general approach to asking questions leaves open the possibility that the group's demands are not framed or perceived as religion, but rather that of, say, 'consumers,' or 'immigrants.' Furthermore, this does not mean looking only at discursive governance, but also includes focussing on "regulation or steering, guidance by a variety of means, not only by rules" (Bader: 2007b, 873).

Yet, I retained the Asadian question for three reasons: first, in order to address the discursive reality of the French case studies; second, Asad's focus on 'sensibilities' (2003 and 2018) provides a potential element in the story of why some institutional solutions automatically make sense to these burial agents; third, finding a *lack* of secularism usage serves as the basis for a constructive engagement with Asad and parts of a postcolonial and religious studies agenda.

This fieldwork anecdote illustrates how this book's two-pronged strategy emerged: entailing oscillation between (1) theoretical/conceptual frameworks and (2) everyday institutional analysis, further reflected in the hierarchy of project- and research-questions.

At the most general level (Level A, see Appendix I), the book engages the project questions: How do states respond to the new religious and cultural diversity? And what scholarly frameworks or concepts are best suitable for international comparisons? This theoretical and metatheoretical discussion draws out broader conclusions regarding international research agendas that go beyond the narrow scope of this study. Yet, such conclusions are strongly informed by the previous fieldwork experience and by the book's everyday analysis as specified below.

The book's second analytic layer consists of three research questions[17] that address the study as a whole (level B). This layer contains an extensive discussion of empirical findings. It is empirical in nature but involves a simultaneous theoretical and conceptual engagement with state-church variables and secularism. I recall and further specify the following:

1) What are the institutional and discursive policy responses to Muslim and humanist burial needs, compared among countries and over time?[18] What are the (national) similarities and differences?
2) What role does a state-organized religion legacy or national repertoire play in determining burial outcomes?
3) How is secularism employed and argued for?

17 These are further operationalized at three levels of analysis (level C, D, E). See Section 2.4.1.

18 For France and The Netherlands, the timeframe is 1800 to the present, for Norway 1840 to the present.

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I define policy outcomes/responses as all intentional actions that engage public authorities, including decisions *not* to act, in view of the accommodation of Islam or humanists (cf. Breemer/Maussen: 2012, 280). And I finetune this dependent variable as to *how* and *why* they are accommodated. That means distinguishing between legal prescriptions, national policies/practice, and municipal practices within each national context. At the municipal level, I furthermore distinguish between an institutional and discursive dimension: What material/legal provisions are in place? Discursively, how do burial agents, or relevant public documents, reason?[19] This is summarized in Table 1.1, which functions as an important data collection device.

Table 1.1 Policy outcomes specified at three levels across countries

	France	**The Netherlands**	**Norway**
1. Legal framework (Chapter 3)			
2. National policies and provisions (Chapter 4)			
3. Municipal practices (Chapter 5)	Paris, Lyon, Montreuil	Amsterdam, The Hague, Almere	Oslo, Støren, Elverum
3.a Institutional: material/legal provisions			
3.b Discursive findings, ways of public reasoning			

Concerning the independent variable, I also propose fine-tuning (cf. Breemer/Maussen: 2012, 280). I define a state-organized religion legacy as a set of ideas, governing repertoires and the underlying principles that work together to create a distinctive national approach to church-state relations (cf. Monsma/Soper: 1997, 156). And I make use of Bowen's idea of schemas, "sets of representations that process information and guide action" (2012, 357). For a more elaborate discussion of this independent variable, see Section 2.4.3.

I relate, first of all, to the standard pictures of religious government found in the literature. Do the solutions encountered fit expectations that follow from the standard conceptions of the French *laïcité*, the Dutch pillarization, and the Norwegian establishment? If so, we would expect to find important differences between these

19 We also take note of the discursive dimension at the legal level and the national policy level.

three countries which are stable over time. This leads to the following hypothesis (drawing on Breemer/Maussen: 2012, 282):

> (H1): Relying on an understanding of the national state-organized religion model as 'strictly secular' for France, as 'pillarized' for The Netherlands, and as 'established' for Norway, we would expect France to have an unwillingness to accommodate Islam in any way that compromises the neutrality of the public sphere. For The Netherlands, we would expect to find some form of pillarized Islamic set of institutions: group rights for all, a large number of Islamic cemeteries, Islamic sections in public graveyards. For Norway, we would expect to find the continuing relevance of the Lutheran Church as the privileged denomination and an extension of rights and facilitative services to other confessional and secular groups in light hereof.

Furthermore, I test a more nuanced version of the model:

> (H2): Relying on a conception of national models as heterogeneous, we would expect to find different ideological traditions within a country's repertoire. These come into play on different issues and vary over time. Yet, we should still be able to identify policy responses in one country that are absent in another (i.e., there would be truly 'national' differences), and these differences can be plausibly linked to state-organized religion regimes. We conceptualize French relations as a combination of Gallican, associational, and strictly secular scripts (cf. Bowen: 2007, 2012), The Netherlands as a combination of 'principled pluralism' (cf. Monsma/Soper: 1997) and a secular tradition (cf. Maussen: 2009, 2012), and for Norway, we propose a conceptualization of its state-organized religion legacy as entailing 'establishment' (remaining Lutheran hegemony), 'compensatory evenhandedness' (compensating toward other minorities), and (municipal) disestablishment schemes (cf. Breemer: 2014, 2019).

What often bedevils such discussions is that models can have different functions: For example, they can be intended *descriptively*, as a succinct summary or abstraction of a complex reality. So, when scholars talk of the Dutch state-church relations as 'pillarized,' they aim to reduce the wild complexity of historical solutions toward a range of minorities at different institutional spheres *and* different time periods to a single institutional 'logic.'[20]

Yet, agents in the field (or scholars for that matter) can also use models or concepts *discursively*, meaning they then often have an explicitly normative intent. After Bowen (2007, 1005), we can refer to these two usages as a 'model of' and a 'model for.' The first describes or summarizes a given reality; the second intends to change social reality, not to merely describe it.[21] Engaging with these discursive models

20 'Pillarization' refers to a societal process of differentiation occurring in Dutch society from 1900–1950s. Separate societal spheres were organized around confessional and cultural affiliations.

21 A 'model for' is an ideological distortion of the social processes it purports to describe.

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(how agents use them and for what reason) can then be a way of providing a better empirical description.

Finally, models can have *explanatory* functions, that is, they are used as an independent variable or *explanans* to describe policy outcomes. This occurs most often in combination with other variables. This is the most challenging claim, because one has to answer *how* the model and its elements lead to action.[22]

In this book, I address the role of a state-organized religion model for burial outcomes in all three ways. By means of the above-formulated hypotheses, H1 and H2, I first ask *descriptively* whether policy outcomes agree with expectations based on the standard or heterogeneous state-church model; this is discussed and summarized in Chapter 6. I then inquire *discursively* how agents appropriate (or not) elements of these state-organized religion legacies in their public reasoning, asking: How is secularism "used and argued for"? This is subject of discussion in Chapter 7. As to their *explanatory* power, I inquire throughout Chapters 3, 4, and 5 about the extent to which lawmakers or burial agents mention these national traditions as the reasoning behind their actions: 'reasons mentioned' being a possible cause.[23]

Keeping these functions of the model separate in such a scholarly analysis helps us to resist the temptation to reify country-specific regimes into stereotypes. For example, it avoids explaining everything the French do with *laïcité* even if the public actors do this themselves.

1.3 Wider Research Context and Main Contributions

These questions and theoretical concerns are relevant to a broad interdisciplinary discussion of religion, immigration, and Islam. Criticism of the classical secularization thesis – the idea that modernity inevitably leads to a decline of religion – has been around for decades. Yet, until recently, some of its core presumptions still held a stronghold on the social sciences and humanities. In normative political theory, the debate over multiculturalism and the politics of recognition of the 1990s still bore its marks. This involved discussions about the appropriate normative responses to ethnic and cultural diversity, while dodging a discussion of religion (e.g., Kymlicka: 1995).[24] In the field of immigration, influential scholars like Castles

22 For a discussion, see Bader: 2007b, 877. Models can also themselves be the object of explanation and investigation. They become the 'dependent variable' (*explananda*).

23 We have no way of assessing whether a 'reason mentioned' is truly a causal factor. The best we can do is to include a wide range of interviews and use multiple sources of evidence.

24 Kymlicka (1995) argues for the impossible and undesired norm of strict separation and state neutrality in the case of ethnic and cultural diversity, all while maintaining a norm of strict separation and privatization in the case of religious difference. His later work is more nuanced.

(1995) made no mention of religion as something relevant to the empirical question in his essay "How Nation States Respond to Immigration and Ethnic Diversity".[25]

With the onset of the third millennium, all has changed: Political theorists now emphasize the range of morally permissible state-church arrangements and the inherent balance of principles involved.[26] Studies in sociology and migration now investigate the different cultural roles of religious identity for the integration process of migrants in the United States versus Europe (Foner/Alba: 2008) or the role of religion for the integration of Muslims across the Atlantic (specifically, Cesari: 2004).[27] Even within the scholarship on secularization itself we find a desecularization and contextual turn. In his influential 1994 work, Casanova still defended societal differentiation as the core component of the secularization thesis. Recently, however, he charted the variety of secularizations or secularisms, mapping all forms of differentiation that have occurred historically and in different local contexts (Casanova: 2006).[28]

In other words, the demise of the secularization thesis has opened up new research agendas. As mentioned, I address two new promising, yet conceptually different, academic frameworks: 'religious governance' (see Section 2.3.1) and 'the research agenda of multiple secularisms and secularities.' I briefly discuss the latest developments in these literatures and highlight the turn to discourse as central to both.

In the literature on immigration, citizenship, and religious governance, scholars present a broad range of factors that affect the state response to religious and cultural diversity (further discussed in Section 2.2). More specifically, scholars point to two relevant institutional regimes regarding Muslims: state-church relations and integration policies (cf. Maussen: 2009). Although the relevance of state-church relations has gained in prominence in the literature (e.g., Fetzer/Soper: 2005), whether or not other factors are more important is still contested.[29]

One central question in this literature is whether national path-dependent structures are still relevant – or in fact have they lost relevance, for example, because of a European process of policy convergence. Alternatively, scholars warn of the danger of reification and too simplistic institutional accounts. We must reconceptualize these national models as heterogeneous and recognize their historical idiosyncrasies.

25 He distinguishes between regimes of differential exclusion, assimilation, and pluralism.

26 See Bhargava: 2011; Taylor: 2011; Bader: 2007.

27 See also Zolberg/Woon: 1999; Casanova: 2007; Warner: 2007.

28 See also Gorski: 2000, 2003.

29 For a discussion, see, e.g., Koenig: 2007; Minkenberg: 2008.

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Furthermore, as part of a discursive turn, scholars have begun to show how state responses depend on public reason and framing (cf. Bowen: 2006; Maussen: 2009). The combination of an internally pluralistic conception of state-church models and a focus on public framing provides better explanations.

To illustrate, in a study on Islamic governance, M. Maussen looked at policy responses to mosque-building efforts in France and The Netherlands. In his analysis, policy outcomes follow from the combined influence of institutionalized regimes of governance and public policy discussion.[30] As long as mosque-building was seen as being about creating a "French Islam," that is, a topic closely identified with the state identity, the principle of strict neutrality in the state-church regime remained valid, also implying a strict policy of nonfinancing. Yet, when the issue was framed in the public discourse as being about creating more equal conditions for a "neighbourhood Islam," this framing appealed to the more pragmatic elements in the French state-church regime, resulting in the adaptation of more accommodating policies. This suggests that the institutional response of a state depends on how the public discourse frames a group's demands.

Changes in the public framing can also cause *other* institutions to come into play (instead of other elements in the *same* institution). For example, the issue of ritual slaughtering[31] can give rise to contestation. Some groups defend their understanding of this issue based on animal rights and human cruelty, whereas other treat it solely as a matter of meat production and hygiene. Western European societies, however, may respond to the demand analogous to previous experiences with *kosher* slaughtering. Previous institutional state-church arrangements toward Jews can make new challenges feel familiar. Depending on who wins the discursive battle, different institutions may come into play, and different institutional responses may then be considered appropriate. Initially, this social order is open, but over time the dominant discourses (linked to specific institutions) come to be taken for granted and in fact become part of social practice: "This is how we do things."

One reason for going into such detail is that these acquired insights (the relevance of institutions, public reasoning, and actual practice) provide the steppingstone for my own research design. Studying (religious) governance requires looking not only at relevant laws and national policies, it also requires looking at social praxis and how public actors frame things: *What* institutions matter and *how* do they matter? Which elements do everyday actors appropriate from national traditions?

This ultimately leads us back to a constructivist turn in the literature on new institutionalism (Section 2.3.3) and a discussion about how institutions influence

30 He distinguishes three levels of structuration: (1) internally pluralistic institutional regimes; (2) strategies of governance and policy frames; (3) a policy process (2009, 260).

31 I borrow here from Maussen (2009, 30).

agents. "Institutions influence behaviour not simply by specifying what one should do but also by specifying what one can imagine oneself doing in a given context" (Hall/Taylor: 1996, 948). Accordingly, institutional action is tightly bound to a public actor's interpretation.

The turn to discourse (analysis) in the study of religion and state is also central to a second influential body of literature: scholarship on multiple secularisms and secularities.[32] To be sure, this research agenda contains a broad range of disciplines.[33] But the work of genealogically orientated scholars, in particular Asad, has

32 Secularism is high on the scholarly agenda; spearheaded by works like Connolly's (1999) *Why I Am Not a Secularist,* Asad's (2003) *Formations of the Secular*, Taylor's (2007) *Secular Age*, Casanova's articles on the "multiple secularisms and secularities" (2006b, 2009, 2011, 2013, 2014), and some of Habermas' writings on religion and postsecularity (2006, 2008a, 2008b). Since the turn of the third millennium, a broad range of anthologies have been published on the topic, and a number of institutional initiatives have been undertaken in its name: the establishment of the Institute for the Study of Secularism in Society and Culture, Trinity College, in 2005; the formation of the Nonreligion and Secularity Research Network at the University of Cambridge in 2008; and a Department of Secular Studies at Pitzer College since the Fall of 2011. The Immanent Frame, a scholarly blog of the Social Science Research Council published several anthologies on the topic. See Jakobsen/Pelligrini: 2008; Warner/VanAntwerpen/Calhoun: 2010; Cady/Hurd: 2010; Gorski/Kim/Torpey/VanAntwerpen: 2012; Calhoun/Juergensmeyer/VanAntwerpen: 2011.

33 We can distinguish here between the explicitly normative and the descriptive/explanatory. (We could also distinguish a third, deconstructive purpose, which, however, is omitted here for reasons of space.) These distinctions are artificial insofar as scholars can use the term for several purposes (e.g., Habermas' term 'post-secularism' (2008a) has both explicit empirical and normative ambitions). But as a rough indication, for political philosophers secularism often designates (a) the alleged role of the religious argument in the public sphere, e.g., Habermas: 2008a, 2008b; Connolly: 1999; (b) a discussion of better or worse forms of secular states, e.g., An-Na'im: 2008; Bhargava: 2009a; or (c) that of competing normative doctrines by which to regulate the relationship between state, religion, and society. The latter can be demarcated into (1) forms of secularism differentiated on the basis of the values that secularism is supposed to defend, leading to distinctions like pragmatic *vs* radical secularism (Modood: 2005), political *vs* ethical (Bhargava: 1998), political *vs* doctrinal secularism (Bielefeldt: 2001). Or it leads to (2) a differentiation based on different foundational grounds. This leads to distinctions like hypersubstantive *vs* hyperprocedural *vs* contextual secularism (Bhargava: 2005); common ground *vs* independent ethic *vs* overlapping consensus (Taylor: 1998). Social and political scientists typify different forms of secularism, for descriptive and explanatory purposes. This leads to distinctions like passive *vs* assertive secularism (Kuru: 2008); weak *vs* strong (Hashemi: 2009); negative *vs* positive (McClay: 2003); Laicism *vs* Judeo-Christian (Hurd: 2008); religious *vs* irreligious *vs* areligious secularism (Gilpin: 2007). In this literature, secularism can designate anything from an institutional configuration, an ideology, a worldview, or the lived experience of being secular (Casanova: 2009, 1052). And then there is an outpour of anthologies with a global or non-Western focus: Berg-Sørensen: 2013; Cady/Hurd: 2010; Rectenwald/Almeida/Levine: 2015. For an explicit non-Western approach, see Burchardt/Wohlrab-Sahr/Middell: 2015. For Indian secularism, see Bhargava: 2011, 2012, 2016. For Asian secularism, see Bubandt/van Beek: 2012. And there is a Special issue on Japanese secularism in the *Japan Review* 30 (2017). For work on Scandinavian

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gathered a large following and platform.[34] In my previous fieldwork anecdote, I already noted Asad's discursive turn toward secularism as a hegemonic narrative of Western modernity. Rather than investigate what religion or secularism *is,* he and likeminded authors investigate the category usage internal to nation-state practices.

This wider research agenda produced some important insights. It has now become commonplace that addressing the contemporary politics of religious diversity requires discarding any grand narrative of modernization. Rather than thinking in terms of linear, one-dimensional developments, scholars now emphasize the plurality of forms of secularizations. And rather than think in standard pictures of what secularism is or should be, they point to a multiplicity of secularisms or secularities.

Second, construing religion and secularism as mutually exclusive essences is now widely seen as erroneous and associated with a modernist European secularist agenda. Developments in religious studies and postcolonial theory now emphasize an understanding of religion and the secular, first, as interconnected and, second, as contingent upon the particular context. Exemplary in this sense is Ch. Taylor's (2007) book *Secular Age*, in which he connects the different meanings of the secular to different historical contexts. In Taylor's opinion, the idea of the secular as the opposite of religion – which is for us the natural way to understand the term – is the latest stage in a development within Western Christianity.

Third, in particular Asad's way of looking at the secular as a means of interrogating secularism inspired scholars in political theory and sociology to investigate secularism at the level of lived experience. It has become fashionable within secular studies to proclaim a phenomenological turn toward the 'lived experience' of the secular,[35] to approach secularism from 'the bottom up,' 'on the ground' (cf. Asad: 2003; Cady/Hurd: 2010, 6; Knott: 2005; Rectenwald/Almeida/Levine: 2015, 11), or as 'a way of inhabiting the world' (Brown: 2007).

Asad as well as Casanova and Taylor deserve credit for these important insights. I sympathize with such a shift toward sensibilities insofar as it highlights the implicit presumptions that people hold for justifying arrangements and ideas regarding religious or secular minorities. People's ideas about religion are often unexamined and taken for granted. Yet, the attempt to apply Asad's framework in a fieldwork context proves difficult. Asad's predicament to "leave the category open" stands opposed

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secularism, see Breemer/Casanova/Wyller: 2014. On Norwegian secularism, see Bangstad: 2009b; Bangstad/Leirvik/Plesner: 2012.

34 For example, see the work of Mahmood: 2003, 2005, 2006; Hurd: 2008, 2015; Dressler: 2013; Dressler/Mandair: 2011. See also Scott/Hirschkind's (2006) discussion of Asad's breadth and influence.

35 See Taylor's 'secularity three' (2007, 2–3), Casanova's 'phenomenological secularism' (2009, 1052), also Rectenwald/Almeida/Levine: 2015, 7.

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to the need for bounded concepts for the purpose of empirical and comparative analysis.

1.3.1 Empirical Findings and Theoretical Implications

This book makes two contributions against the backdrop of this discursive turn within these scholarly literatures. In the following, I discuss the outcomes of the two-pronged strategy mentioned earlier, but this time spelled out in relation to the research questions and an overarching concern with scholarly reification.

In response to research question 1, this book finds that the differences between these states and the way they give institutional form to religion in the burial domain in general, and toward Muslims in particular, is astonishing at the legislative level: Confessional sections are illegal in France, a legal right for groups in The Netherlands, and absent altogether in Norwegian law. Yet, in practice, nearly all municipalities provide for confessional sections in public graveyards.

In response to research question 2, the role of state-organized religion legacies, this book finds that, legally, the historical formation of the relationship between state and church in these countries impacted the rules regarding confessional sections and cemeteries. And, discursively, these legacies return in the discourse – in how local burial agents make sense of the issue. Yet, these legacies seemed to matter little for our de facto understanding of material practice.

If we connect these empirical findings to the discussion on national models in the religious governance and integration literature, the first outcome of the book's proposed two-pronged strategy becomes both empirical and methodological in nature: This study shows that the standard models for understanding state-church relations – laïcité, pillarization, establishment – better describe legal differences than actual practice. Indeed, we need a scholarly turn to a public actor's discourse, as suggested in the aforementioned literature. However, investigating everyday accommodation in the graveyards reveals the need for a multilevel approach and a look at the material dimension as well.

The book's second contribution relates to research question 3 about 'secularism usage'. This study finds that only in France is there an explicit concern with secularism and being secular. Such explicit concern with secularism as a guiding idea or issue is lacking in The Netherlands and Norway. And at the level of the more implicit ideas ('sensibilities'), I found that Dutch and Norwegian burial agents are not driven by any concern about solutions being secular versus religious; rather, their central tacit motive for action was a concern with wholeness versus fragmentation: How whole or divided should the cemetery be?

Connecting these empirical findings to the discussion of the multiple secularisms results in a second outcome of the proposed two-pronged strategy, that is conceptual and metatheoretical in nature, leading to recommendations for a more coherent

comparative methodology: Asadians investigate the deployment of a category like secularism internal to practices, asking "How is it used and argued for?" Yet there is no analytic room in their approach for addressing the situation where respondents *do not* use or argue for secularism. In other words, they reify that reality as being about secularism.

I repair some of these shortcomings (Section 2.3.4) by distinguishing between 'the strategy of actual deployment' and 'perceived deployment.' Still, I think that, on a metalevel, structuring one's analysis in terms of the secular or comparative secularism – as is very fashionable today – risks reifying the reasoning of the everyday world.

Both these main contributions (the need for a multileveled, material focus and abandoning secularism as a structuring term) are connected through an overarching concern with reification. Reification connotes "to make something abstract more concrete or real" (Oxford Dictionary).[36] Yet, it is sometimes also understood as a form of overgeneralization.[37] I limit my definition to that of an 'inadequate reduction of complexity' and of making national models or concepts into real entities.

Avoiding reification is of central concern to Asadian scholars who seek to deconstruct the reification process that occurs, for example, when states use these categories to demarcate 'good religion' from 'bad religion' (cf. Hurd: 2015). Social scientists in the governance literature question reified one-dimensional national models in order to develop better comparative tools. Here, reification occurs, for example, because scholars mistake the discursive salience of national models for a sufficient explanatory factor. Respondents explain their actions in terms of 'pillarization,' which is then taken as a proof of the model. Not only does this confuse discursive salience with explanatory salience, it presumes pillarization to be this–one thing – that somehow drives people's actions.

In both scholarly agendas, a deconstructive and discursive approach is used to avoid reification and ameliorate comparative understanding. Yet, paradoxically, as I will show, in both scholarly agenda's scholars run such risk (in particular Asadians).

Ultimately, I do not propose a one-size-fits-all solution. The line between descriptive, normative, or explanatory purposes is only analytically sharp. But it would help if scholars were more upfront about their own implicit normative presuppositions (see Bader: 2007b, 877). Scholars need not *always* adopt the discursive framing of the lifeworld. Nor do I propose that we can avoid all normative connotations. Yet, there can still there be better and worse terms.

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36 The standard example is Marx's claim that money is a reification of what is in fact a social production process (labor) in which value is attributed to a thing.

37 "When we reify, we do not see the details, because they are overshadowed by the whole", see http://www.anthrobase.com/Dic/eng/def/reification.htm [accessed 25 May 2020].

My general point is that scholarly naming *does* matter, thus requiring explicit reflection. Scholars need concepts and models that help reduce complexity in an appropriate way and not stand in the way of descriptive or explanatory analysis.

1.4 Chapter Outline

Chapter 2 discusses the leading theoretical approaches, outlining the contours of a multileveled discursive (religious) governance approach. This chapter incorporates elements from two strands of actor institutionalism into Bader's religious governance framework. And it incorporates a more methodologically "fit" version of Asad's anthropology of secularism.

In Chapter 3 we look at the legal burial regimes and state-organized religion regimes and their historical genealogies. There are large differences between countries in how they give institutional form to religious diversity in the cemetery and the nature of their legal social imaginary of a cemetery.

Chapter 4 investigates the relevant national policies and their historical idiosyncrasies. What do these different legal burial regimes – and state-church regimes described in Chapter 3 – amount to in the face of a common challenge today? How do they translate into national policies regarding the burial needs of Muslims and humanists? There are clear differences regarding the national policy responses to the demand for confessional sections and cemeteries for Muslims. Yet, these national differences become less clear when we include existing material provisions.

Chapter 5 describes what those burial agents do and think who actually deal with these issues on a day-to-day basis. It provides in-depth descriptions of local municipal responses and related processes.

Chapters 6 and 7 then arranges all of these empirical finding across levels of governance and countries into patterns. Chapter 6 describes and explains the municipal institutional pattern; Chapter 7 describes and explains the burial agent's public reasoning. If our legacies (standard and heterogeneous) do not well reflect themselves in material outcomes, as seen in Chapter 6, might they have relevance for the agent's discursive responses? Lastly, how is secularism used and argued for? Stretching the argument as far as possible toward Asad, I inquire about possible evidence for secular sensibilities.

Coming full circle with that latter argument (opening and closing with Asad), let us return to the question of minorities and Islam in Europe. Are countries increasingly becoming similar in their policies toward newcomers? Or do national and path-dependent differences exist? This book provides an in-depth answer to this question. Moreover, I very clearly show why studies on state responses to new diversity need a two-pronged approach: connecting theory and concept development with everyday analysis. In their empirical focus, scholars need to

move from legal inventories of regulations to a multileveled analysis of rules and concrete material solutions provided for. Conceptually and metatheoretically, a debate on the secular benefits from this book's empirical findings, namely, that scholarly terms can be out of sync with – or at worse misrepresent – the language and concerns of the everyday professionals under study.

Chapter 2: Theoretical Frameworks of Religious Governance and Discursive Institutionalism

2.1 Introduction

This chapter discusses the book's main theoretical approaches. As an introduction to the research design, it discusses the scholarly approach to institutional regimes and discourse in the literature on the institutionalization of religious and cultural diversity (Section 2.2). It then outlines the contours of a multileveled discursive (religious) governance approach (Section 2.3).

This approach, used throughout the book, is based on the work of the sociologist and philosopher V. Bader. His metaframework of religious governance – for my purpose specified as '(religious) governance'[1] – includes all levels and all modes of governance that have a possible bearing on policy outcomes, for example, actor constellations, relevant institutions, or cultural factors (Section 2.3.1).

I supplement Bader's framework with insights from two strands of actor-centered institutionalism (ACI): In line with Bader, F. Scharpf's ACI emphasizes the relevance of a multiple actor- and process-orientated approach to institutional action (Section 2.3.2). V.A. Schmidt's discursive institutionalism (DI) addresses the relationship between institutions and discourse/ideas for explaining institutional action and change (Section 2.3.3). Schmidt's understanding of institutions as not simply structures (i.e., contexts of meaning) but also ideational constructions allows for a better understanding of a range of discursive similarities and differences encountered in this study.

Furthermore, as part of that discursive discussion and as a means of addressing cultural factors, I integrate a debate over the cultural construction of the secular (Section 2.3.4). Relying on the theoretical work of Asad, in the embedded case studies I explore how ideas about secularism or secular sensibilities are relevant to the actions of a burial agent. This has initial appeal because of the discursive importance of *laïcité* for French burial agents. However, as previously mentioned (Section 1.2), Asad's framework proves hard to apply in a fieldwork setting. Thus, in preparation of the empirical analysis, I amend Asad's theoretical proposal and discuss the multiple embedded-case design and additional qualitative methods as suitable means of exploring the theoretical issues (Section 2.4), before concluding (Section 2.5).

1 This is intended to highlight our study of the governance of these group needs, which sometimes, but not always, is seen as the governance of the needs of a religious community.

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2.2 State of the Art: State Accommodation of Diversity

The question of religious and cultural diversity and how states 'handle it' has gained importance across many disciplines. In this complex dynamic, three sets of factors are typically discerned: the role of (1) actor constellations, (2) cultural context, and (3) structural, institutional factors (cf. Koenig: 2009, 305).

Scholarship that centers around the various actors involved asks, for example, whether the most religiously diverse countries also have the most open cultural policy (cf. Koenig: 2009, 306). Alternatively, the socioeconomic, educational, and religious status of the actors (e.g., migrants) plays a role. Scholars investigate the internal organizational structure of, say, Muslims as affecting the provision of services for new migrants (cf. Kniss/Rumerich: 2007; Davis/Robinson: 2001).[2] Or they show that the transnational mode of religious belonging among migrants bear on how they organize, make claims, and ultimately settle (cf. Beyer: 2006; Ebaugh/Chafetz: 2002).

Other scholars hypothesize the denominational effect on integration policies. Do specific confessional and cultural legacies – such as the fact that Norway is predominantly Lutheran as opposed to the mixed Catholic-Protestant population of The Netherlands – affect how public authorities integrate newcomers? A large-scale comparative study by Minkenberg (2008) suggests this. Predominantly Protestant countries, he argues, exhibit moderate-to-high levels of recognition of cultural group rights, whereas Catholic countries fall in the range of low-to-moderate levels.

Political scientists, however, have been much concerned with structural and institutional factors (e.g., Koopmans/Statham: 2000). When this is transposed to the study of Islam in Western Europe, we observe a shift from research looking at the *internal* organizational structure of Muslims and their religiosity to research that focuses on the *external* opportunity structure (cf. Bader: 2007b, 872). This work shows how "societies create opportunities for the development of Islam, or oppose them" (Buijs/Rath: 2002, 9).[3] A certain political climate, a set of laws, or social conditions affect how minorities frame their demands and whether they, for example, emphasize equal or exceptional treatment (cf. Rath/Penninx/Groenendijk/Meijer: 2001).

More particularly, scholars emphasize country-specific institutional arrangements (or regimes) as crucial factors. Regarding Islam in Europe, two types are particularly relevant: that of citizen and immigrant integration and of state-church relations (cf. Maussen: 2009, 19). Because the presence of Islam in Europe results

2 This can involve ethnic composition, financial resources, or ideological characteristics of different Muslim communities.

3 See Koopmans/Statham/Giugni/Passy: 2005; Fetzer/Soper: 2005, 2007; Koenig: 2005; Maussen: 2007a, 2007b, 2009.

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largely from migratory processes, the integration of Muslims is often conceived of as both a matter of immigrant integration as well as religious diversity.

A landmark study is that of Fetzer/Soper (2005), which seeks to account for the disparate political responses to the religious concerns of Muslims in Britain, France, and Germany in the areas of education and houses of worship. The authors argue that the national state-church legacies shape (rather than determine) the outcome of negotiations over accommodation.[4] And this factor can better account for variation than the political resources of the Muslim communities, the general political opportunity structures, or the political (ideology) of the respective states on citizenship and nationality. In a similar vein, a range of studies investigates the role of a given state-church pattern for the treatment of Muslims in prisons.[5]

Fetzer/Soper's argument led to considerable debate.[6] Critique, or complementary analysis, is levelled at it in two ways: First, are other factors not more relevant for explaining variation in accommodation policies?[7] Second, should we revise the conception of national models themselves?

Along the first line of critique scholars typically ask about convergence or remaining differences. Are national models still consequential – or do they lose relevance, for example, because of a European process of policy convergence?

In this regard, Minkenberg (2008) explores the relationship between religious legacies and cultural group rights for 19 countries.[8] Relying on a tripartite typology of state-church regimes into 'established,' 'partially established,' and 'separate,' he finds Fetzer/Soper's conclusion about the nonaccommodating effects of separationist church-state regimes to hold for France. But it cannot be generalized. Denominational factors, instead, he considers more consequential.

Koenig (2007) interrogates the national model of religious government from a transnational perspective. To what extent does a postnational or multicultural social

4 They refer to the Anglican establishment, French Laïcité, and the German *Staatskirchenrecht*.

5 Beckford (2005) investigates this role in France and Britain, Beckford/Gilliat: 1998 for Britain. Furseth (2003) investigates the role of the Norwegian state church in the military and prison system, inquiring about the formal administrative functions of the church.

6 See Koenig: 2007; Bader: 2007b; Maussen: 2007b; Bowen: 2007; Minkenberg: 2008.

7 See Minkenberg: 2007; Breemer/Maussen: 2012; Soysal: 1994; Jacobsen: 1996; Joppke: 2007; Koopmans/Statham/Giugni/Passy: 2005.

8 Religious legacies are specified as the combination of three markers: a historic-cultural dimension, i.e., the role of confessional patterns (relying on Martin: 1987); second, a sociocultural dimension of religiosity, as measured in church-going rates; and finally, the institutional dimension of patterns of church-state relations (relying on Chaves/Cann: 1992). The latter is measured by the degree of deregulation of churches in financial, political, and legal regards. He categorizes the latter pattern in terms of a threefold typology: full establishment (Scandinavian countries), partial establishment (Germany, Italy, and Great Britain), and full separation (France, US, Ireland). For an index of cultural group rights, he relies on Koopmans/Statham/Giugni/Passy: 2005.

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order affect religious government today? Are transnational and subnational actors increasingly more able to make claims for religious recognition against the sovereign nation-state? His study of Muslims' claim-making finds that both path-dependent state-church repertoires as well as multileveled transnational institutionalism play a role.[9]

A second line of critique targets the idea of the national state-church model as a totalizing factor itself. Here, scholars point to the danger of reification and over-simplistic institutional accounts. One reason why, in the study above, Minkenberg finds little effect of state-church regimes might be that his typology is too simplistic (established, partially established, and separate). So, along this line of argument, scholars seek to revise and nuance their conception of the national model.

As a further specification of this second line of critique I highlight three insights from this literature that inform my own approach.[10]

One important problem with the fixation on national models lies in a deterministic conception of how these models lead to action. How is it that policy scripts in these models are activated to address situations of new diversity (cf. Koenig: 2009, 312)? Perceiving models as "dense, coherent, stable and homogeneous structures" (Bertossi/Duyvendak: 2012, 240) can falsely suggest that the ideology of pillarization or establishment directly drives action – which mistakes the model for this homogeneous 'thing' driving individual and collective behaviours; it confuses descriptive, stylized models with explanatory factors. And how to explain institutional change (Finotelli/Michalowski: 2012, 234)?[11]

As a response, scholars have pointed to the internal complexity and historical contingency of models. National models should be seen as historical products containing "within them multiple lines of reasoning and emotion, developed in counterpoint to each other, and in tension if not in contradiction with one another" (Bowen: 2007, 1005). And these different elements of the model can apply at different moments in time, regarding different policy domains, as Maussen argues (2009, 253). Whereas 'evenhandedness' is the guiding principle in the Dutch approach to spiritual care and the wearing of headscarves, reliance on 'separation of state and church' and 'no financing of religion' determine the financing of houses of worship.

9 Koenig uses transnational institutionalism "to designate social practices and institutional spheres cross-cutting or encompassing the boundaries of nation-states" (2007, 915). This set of transnational institutions and practices has normative (law), regulative (political institutional actors), and cognitive dimensions (imagined community of the European Union).

10 Special issues on the national model are an issue of Journal of Ethnic and Migration Studies (2007), vol. 33, no. 6; 'The Heuristic Potential of Models of Citizenship and Immigrant Integration Reviewed,' Journal of Immigrant and Refugee Studies (2012) vol. 10, no 3; issue of Journal of Comparative European Politics (2012) 10.

11 How can one explain changes in public policies in reference to the same model?

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Furthermore, the elements of the model can apply differently to Islam than to other religious minorities.[12]

Second, in the country overview studies of *the* French or *the* Dutch approach to Islam, scholars focus mainly on legal regulations and formal policies. "Social contexts, concrete interactions and institutional settings are curiously never the place where 'model scholars' do any research" (Bertossi/Duyvendak: 2012, 241). Yet, Bader (2007b, 880) too predicts it:

> The gap between predominant normative models of appropriate institutions and policies and 'what is going on, on the ground,' the actual institutions and policies, is expectably huge in all countries but particularly in countries like France or the US, where ideal models of 'strict separation of state and religions' are paramount.

Institutional approaches thus stand to gain from a multileveled analysis as well as a study of actual accommodation and policy application.

Third, the latest development in the literature suggests that, instead of relying on national models, scholars should take note of "the ways in which government and other public actors view their social world and act in them" (Bowen: 2012, 354). Such a proposal links the effort to devise better descriptive models (or categories) of what happens to religion or Islam to a constructivist turn. The meaning-giving processes of the agent themselves become central for explaining (or describing) their actions. By looking closely at public actors' discourse, we might discover new elements in the French/Dutch/Norwegian way of governing religion. In particular, when combined with historical analysis, as Bowen has done for France,[13] we might be in a position to enrich our descriptive analytic models. Or we can observe how an existing state-church element is interpreted in practice in new ways.

In this latest conception of state-church legacies, the model is thus seen not only as internally plural. It is also conceptualized as an ideational frame of reference that can be appropriated in different ways (it is 'multi-interpretable'). See Jensen (2019, 6) for a similar ideational approach to the national model, namely, that of an immigrant integration model.

This discursive turn highlights the need for a scholarly distinction between different usages of the model. As discussed in Section 1.2, Bowen distinguishes between a state-church model as a 'model of and 'model for.' The former describes

12 Maussen (2009, 253) shows how, in the French governance of Muslims, Islam obtains a *status aparte* compared to other religious minorities as a result of particular colonial legacies. The Gallican and Concorditarian traditions were crucial for the governance of Islam in Algerian and West Africa, sidelining a stricter separation tradition. The Dutch, however, did not draw upon their colonial policies.

13 He adds the 'associational' and 'Gallican' element to the French model. See Section 3.3.1.

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a given reality, i.e., it is a descriptive analytic tool; the latter is a discursive resource used for specific purposes.

In summary, I use the above-mentioned insights as steppingstones for my own approach. In my conceptualization of what happens to Muslim and humanist burial needs, I pay attention to (1) internal complexities and possible historical changes in adapted policies toward these groups burial needs; (2) forms of regulation at different societal levels (not only law); (3) actual practice and application as opposed to normative policy models; (4) the discourse actors employ to make sense of the issue. These insights form the input for a 'multileveled, discursive (religious) governance approach' developed in the next section. Further, they inform the working conception of a heterogeneous state-church regime discussed in Section 2.4.3.

2.3 A Multileveled, Discursive (Religious) Governance Approach

2.3.1 Explaining the Metalevel Framework of Religious Governance

In response to the range of potentially relevant factors discussed above, the sociologist and philosopher Veit Bader proposes a metaframework of religious governance. His intent is to bridge the various forms of scholarship and to incorporate a scholarly focus on relevant internal factors of governance (a group's own rules and structures) with a focus on external factors of governance (general opportunity structures).

The term 'governance' is popular in a range of disciplines,[14] though definitions differ widely in the literature. Nevertheless, they do share a focus on mechanisms of regulation that lie somewhere on the nexus between the state and society (cf. Treib/Bähr/Falkner: 2005, 4). Bader was the first to apply the concept of governance to the study of religion and Islam.[15] He refers to religious governance as a pretheoretical framework aiming at providing for an adequate conceptual mapping of the research field of religion, Islam, or migrants. Further, it provides guidelines for the development of theoretically guided, explanatory, and comparative research.

In juxtaposition to a government approach, religious governance includes "regulation or steering, guidance by a variety of means, not only by rules" (Bader: 2007b, 873). Religious governance is thus more comprehensive than government.

14 This includes political science, economics, law, EU research, and studies analyzing the role of the state in network societies. For a good overview and interdisciplinary discussion of this literature, see Kersbergen/van Waarden: 2004; Treib/Bähr/Falkner: 2005; Pierre: 2000a, 2000b; Kooiman: 2003.

15 See Bader: 2007a, 2007b, 2009a; Maussen: 2007, 2009. Bader (2012c) also applies it to the study of transnational migration and post-colonial governance of Islam, also Maussen/Bader/Moors: 2011.

Studies of government tend to focus on the action of one actor (the state) and on action(s) coordinated by means of formal rules (law or public regulations). Focussing on governance means including more actors and other forms or regulation, like soft pressures, condoning, incentives, etc.[16] Yet, religious governance is narrower because it includes only *intentional* capacities to regulate; markets as a relevant mechanism for action coordination are not part of its focus. These operate according to an invisible hand. Furthermore, only coordination by policies in a broad sense matters. But, for example, the personal opinion of public or private agents falls outside its scope.

To include the role of religion, humanism, or Islam in affecting policy outcomes, Bader distinguishes two axes of regulation: internal versus external governance. He also distinguishes democratic (bottom-up) from hierarchical (top-down) governance. Muslims own claims and actions are seen as shaping institutional arrangements. Yet institutions also shape their actions and claims-making. Bader thus relies on an actor-centered institutionalism. (We return to this theme later on.)

External factors can include a wide set of regulations as discussed: laws or law-like rules as well as more informal forms of regulation. Internal issues of governance involve self-regulation by religious laws and customs (e.g., canon law, sharia law) or, for example, fatwas on specific topics. Here, the focus is broad and includes rules that are enforced top-down by formal church elites, sharia councils, etc. Or, reversely, it includes bottom-up steering mechanisms by local congregations or imams. It could also include the destabilization of rules or norms by dissenters or less formally organized groups of believers. In this respect, it is important to note the differences between religions in their internal organization: Catholicism approaches the autocratic pole; Protestantism is more democratic; Islam entails a less organized form of internal governance (cf. Maussen/Bader/Moors: 2011, 16).

Differences in the internal structure of religious or secular minorities might help to explain why new minorities are organized and institutionalized differently, even in the same state. Differences in the external governance (both institutions as well as cultural factors) might explain why a similar religious minority organizes and is institutionalized differently in different states (cf. Bader: 2014, 3).

The governance perspective is multiactor-centered as opposed to state-centered. It focuses on processes and potential shifts in policy paradigms, which avoids historically static models or fixed normative templates for the regulation of reli-

16 For example, Treib/Bähr/Falkner (2005) distinguish between conceptions of governance encompassing institutional features (the polity), actor constellations (politics), and policy instruments (policy). They distinguish four modes of governance in the policy dimension: coercion, voluntarism, targeting, and framework, which derive from two dimensions: the type of instrument applied (legally binding/soft law) and the quality of implementation (rigid/flexible).

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gious diversity. Finally, it leaves room for a wide range of factors (the state and its institutions) to come into the analytic gaze of what happens to religion or Islam.

For my purposes, the perspective is attractive: By considering the pitfalls of national modelling, Bader's framework provides the parameters for more 'sensitive' modelling that aligns itself with a multilevel perspective and shifts in governance as they apply to society at large.[17] This is particularly relevant to the study of Islam, the governance of which is affected by a set of transnational institutions (Koenig: 2007b) as well as by subnational and local institutions. Furthermore, the religious governance perspective is attractive in light of the methodological concerns I raise toward Asadian scholars. The analytic openness of this perspective allows researchers to approach its subject matter openly. It asks, rather than assumes, what issue is at hand.

2.3.2 Integrating Elements of an Actor-Centered Institutionalism

A few elements in Bader's framework invite further investigation. Bader emphasizes the dynamic interaction between the claim-making of actors and existing institutions. A similar idea is central to the actor-centered institutionalism (ACI) developed by F. Scharpf and R. Mayntz, where social phenomena are explained as the outcome of the interaction of intentional actors. Yet, these interactions are structured such that the outcomes are shaped by the characteristics of the institutional setting in which they take place (Scharpf: 1997, 1). The institutional context does not determine what actors do, but it does influence them.

For my analysis of policy application (rather than formulation), I do not need to know the details of their account. Yet, in line with ACI, I do adapt a similar backward-oriented reasoning approach. The central unit of analysis for their approach lies in the interactions that eventually lead to a policy outcome. In the next instance, this allows for the identification of the relevant actors "whose choices ultimately will determine the outcome" (Scharpf: 1997, 43). Within actor- institutionalism, the observable behaviour by actors counts as the 'proximate' cause, whereas the institutional context is seen as constituting a 'remote' cause (Mayntz/Scharpf: 1995, 46–47).

In line with ACI, I start from an observed policy outcome and reason backwards to discover the causes for that particular policy outcome. Like Scharpf, I give analytic emphasis to the potential multiplicity of actors involved. Yet, in most of the

17 This involves a vertically upward change in governance from nation-states to international public institutions; and a vertically downward shift from the influence of national and supranational realms to that of subnational or regional/local agencies (cf. Kersbergen/Waarden: 2004).

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municipal case studies, there were just one or two relevant agents. Furthermore, Scharpf has a different institutional orientation.[18] Ideas and discourse do not play an explicit role in Scharpf's account. For this, I turn to V. A. Schmidt's so-called discursive institutionalism.

2.3.3 Discursive Institutionalism: How Ideas and Discourse Matter

To explain the understanding of institutions in Schmidt's framework and its relevance to my book, I need to say a little bit about the other forms of institutionalism juxtaposed to discursive institutionalism (DI).

DI is an umbrella term for works in political science that "take account of the substantive content of ideas and the interactive process by which these ideas are conveyed and exchanged in discourse" (Schmidt: 2010, 3). Schmidt claims DI to be the fourth new institutionalism.[19] In the three older schools, rational-choice institutionalism (RI), sociological institutionalism (SI), and historical institutionalism (HI), institutions are seen as external to the actors. Furthermore, they function largely as constraints to the agent's functioning. Institutional action on a rational-choice perspective is seen as the product of rational agents calculating in light of a set of external incentive structures. Historical institutional accounts see actions as the result of path-dependent rule following macrohistorical structures and regularities. Sociological institutional accounts see action as the product of a social agent that thinks and acts according to a norm of appropriateness in light of external prevailing cultural norms and frameworks.[20]

According to Schmidt (2008, 313), these schools rightly brought institution back into political analysis. But they "may have tipped it too far." These perspectives leave little room for explaining change:

> Action in institutions in the three older new institutionalisms conforms to a rule-following logic, whether an interest-based logic of calculation, a norm-based logic of appropriateness, or a history-based logic of path dependence. But if everyone follows rules, once established, how do we explain institutional change? (Schmidt: 2008, 314).

18 Scharpf's framework is a mixture of rational-choice institutionalism (RI) and historical institutionalism (HI). His work has earned him credit for sensitizing the understanding of a rational actor's actions and preferences toward an understanding of "the games real actors play."

19 See Schmidt: 2008, 2010. "New institutionalism" refers to scholarly works that brought back in institutions in the explanation of social and political phenomena. These developed largely in response to the influence of behaviourism in the 1960s and 1970s (cf. Hall/Taylor: 1996). The latter explained political phenomenon as the outcome of the behaviour of (rational) individuals or explain politics merely as the outcome of group conflict (the sum aggregate of individual behaviour).

20 I rely in this discussion on the succinct summary of Schmidt (2010, 2).

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In other words, Schmidt criticizes these schools for having an imperfect account of agency. "RI, HI and SI effectively leave us with 'unthinking' agents who are in an important sense not actors at all" (2008, 314).

My interest in this framework is not to explain institutional change. But Schmidt offers a useful way of conceptualizing institutional action that, like Scharpf and Bader maintain, takes agency and institutional embeddedness seriously. Yet, Schmidt accords more explicitly a role for ideas and discourse by emphasizing the discursive dimension of institutions.

Such a conception of institutions allows me to take the ideas and discourse of burial professionals in the field as an entry point for the causes (or at least for the reasons mentioned as causes). The burial discourse tells us something about the mechanisms of action, for example, how a state-organized religion legacy is de facto appropriated. Furthermore, a comparative look at the discursive framing also reveals national differences regarding relevant institutions or broader cultural meaning structures.[21]

Schmidt sees institutions as both given *meaning structures* and contingent *constructs.* Institutions feed into the background abilities in which and through which the agent thinks, acts, and speaks. Schmidt's notion of 'background ability' emphasizes knowhow and predispositions rather than a conscious engagement with these constitutive rules or norms.

> Background abilities underpin an agent's ability to make sense in a given meaning context, that is, to get it right, in terms of the ideational rules, or 'rationality' of a given discursive institutional setting (Schmidt: 2010, 14).

Schmidt refers to what Searle (1995) defines as 'background abilities,' which according to Schmidt encompass "human capacities, dispositions, and knowhow related to how the world works and how to cope with it" (Schmidt: 2010, 14). Or, referring to Bourdieu, the habitus in which human beings act, "following the intuitions of a 'logic of practice'" (Schmidt: 2010, 14, quoting Bourdieu: 1990, 11). Likewise, Schmidt refers to the psychology of cognitive dissonance that shows that people act without thinking until they run into a contradiction; only then do they consciously experience the rule that applies.

In other words, institutions enter the reasoning and actions of the actors, not (only) as cultural norms or scripts of appropriateness (as a sociological institutional account would have it, SI). Rather, they enter as the very means by which meaning

21 Why do they juggle with words in France, talk about money in The Netherlands and about consecration in Norway?

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is attributed to the situation[22] – something I call the 'issue framework.' For Schmidt, institutions are also ideational *constructs* and thereby contingent outcomes of the agent's thoughts. The reinterpretation of an institutional element by public agents can also alter the legitimacy of a previous way of ruling or way of seeing things.

Relating back to the opening paragraph of section 2.3.3, institutional action in DI is a process in which 'sentient' agents make sense of a given issue in light of the reigning "ideational rules or rationality of that setting" (Schmidt: 2008, 314). That means that Schmidt sees a dialectic relationship between institutions, discourse, and social praxis. Institutions enter social praxis and discourse by providing the means through which agents make sense of a situation. Over time these institutional frameworks come to be taken for granted: They become part of the background: "This is how we do things." And with this praxis comes a way of talking.

Yet, institutions are also dependent on discourse for their legitimization. Changes in the public discourse, or the popularity of new ideas, might mean that other institutional factors emerge, or that existing elements are reinterpreted. As explicit ideational *constructs,* institutions are also contingent outcomes of the agent's thoughts and interpretation.

In order to explain institutional change, Schmidt's basic concern, she emphasizes a second component: an agent's 'foreground discursive ability.' This involves the capacity of agents to speak, think, and act outside their internalized institutions (rules, preferences, norms). This discursive ability allows them to change their own ideas and communicate them to others. They can thereby collectively alter an institution.

Schmidt's distinction between ideas and meaning context is useful for the purpose of this book. The latter refers to the (institutional/structural/cultural) frame in which ideas are giving meaning. This distinction allows me, in a more fine-grained manner, to separate how differently and how similarly these countries respond to similar burial demands.[23] Furthermore, my analysis confirms the idea that institutional action is (at least) initially practice driven: This is how we do things – rather than explicitly following rules. Third, because Schmidt's understanding of meaning context is broad, including institutional legacies as well as other discursive settings or cultural legacies, it aligns well with Bader's governance approach. Fourth,

22 There is a close affinity between SI and DI.

23 Policy outcomes between countries and municipalities are rather similar in a material sense *and* in some of the normative ideas that are agents claim to be guiding their decision (e.g., equity, respect, religious freedom). Yet, they are crucially different in the frames (institution or discourses) in which agents embedded these normative ideas and thus the meaning that they attribute to these principles.

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regardless of the specific ontological position on the relationship between ideas, agent, and institution[24], we take agents ideas seriously (yet not too seriously!).

A few differences should be noted. Schmidt's work concerns policy-making and explaining institutional change (for example, at the level of the European Union). On the other hand, I am concerned with institutional action rather than change and with application of policy rather than the making of policy.[25] Furthermore, in Schmidt's analysis, discourse comes in two forms: the coordinative discourse among policy actors and the communicative discourse between political actors and the public (2008, 303). However, on the issue of Muslim burial, there is little public debate, not even in France.[26]

For this study, the relevant discourse is the day-to-day decisions of the public burial executives. I conceive of (policy) discourse as the "ensemble of ideas, concepts, and categorizations that are produced, reproduced and transformed in a particular set of practices and through which meaning is given to physical and social realities" (Hajer: 1995, 44). I analyze this day-to-day discourse borrowing loosely from Schmidt's distinction between levels of ideas.[27] I distinguish between (1) explicit ideas mentioned for guiding action, (2) issue frameworks, (3) a level of cultural confessional narratives/sensibilities.

The first level refers to ideas that agents mention for their actions taken, or the reason for which they think current solutions are as they are. That can be explicitly normative (moral-political) reasons ('be equal between citizens,' 'respect religious freedom of practice') or realistic and prudential oughts.[28] Here, I follow closely the language used by the respondents.

'Issue frameworks' refer to the larger meaning context in which agents situate these ideas; these can be relevant institutions, relevant public discourses, or other

24 Schmidt has been accused of reducing institutions to mere ideas in the mind of the actor. They become "residual" according to Bell (2012). Bell is right that institutions are not only ideas (that would imply that they have no ontological existence outside the mind of the agent). But I disagree that Schmidt accords institutions only a status as ideas. She allows them to enter her analysis as "constitutive rules." They enter the agents understanding of how to do things, their capacities, dispositions, and knowhow. Yet, she differs in thinking that agents initially and normally do not reflect on these constitutive rules. I omit a further ontological account of institutions here.

25 This is similar to Lipsky (1980), whose study looks at how public policy is 'made' in everyday life by street-level bureaucrats. Yet, I do not focus on one group of professionals.

26 There is thus no pile of public statements out of which we can distill different groups that battle it out over the definition of a problem. Hajer (1995, 44) tries to explain why a certain understanding of the environmental problem is authoritative.

27 Schmidt (2008, 305) distinguishes three levels of ideas "policy," "program," and "public philosophy."

28 E.g., Not shock!, weight of history, "please" (the customer), "it is logical," "for a mayor what is the problem?," "niche in the market," "we are a practical people."

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sources of authority. What do the respondents see as the main issue? Here, (as a scholar) I interpret what I think is the main issue.

Lastly, we demarcate cultural and confessional narratives, a level of ideas on par with Schmidt's distinction of public philosophy (2008, 306). I understand these as wider background narratives: loosely articulated stories that inform the choice but that cannot be fully explained. Actors might not be able to define these ideas clearly. "These ideas serve as guides to public actors what to do, as well as being the source of justification and legitimization for what such actors do" (Schmidt: 2008, 306). At this level, I give examples in which respondents could not really explain why they did what they did. But at the same time they were deeply committed to avoiding a certain institutional solution.

Based on these fine-grained distinctions, I have the tools for a nuanced discourse analysis. I can compare literal language used: "I do this because of *laïcité*," as well as narrative structures. Maybe the agent does not use the word *laïcité*, but they do provide a similar institutional argument ('issue framework') or expresses similar cultural 'sensibilities' another agent would call 'laic.' Yet, as I argue, this then requires an explicit justification and strategy of 'perceived deployment' on the part of the scholar.

Before making the transition to the next section on Asad, first a few words on the distinction between explicit and tacit factors. Schmidt's conceptualization of institutions is throughout one of implicit meaning structure (feeding into agents 'background abilities') as well as an explicit ideational construct (part of agents 'discursive foreground abilities'). So, what is the difference between the implicit relevance of an institution as 'an issue framework' and that of a 'sensibility'?

I cannot provide hard-drawn lines here. But with sensibilities I try to get at even more implicit incentives for action. They come through in the discourse because of the usage of certain words ('whole,' 'fragmentation,' 'patchwork,' 'ghetto'), or underlying metaphors ('lying in the bed,' 'coming home'). But respondents are not conscious about this. In the two examples I discuss (Section 7.6.1), these sensibilities are expressed through cultural/confessional narratives about the exclusion by Catholics and the role of the French state toward its citizens. In the Norwegian context, the recurring theme of consecration ('issue framework') suggests the relevance of Christian or Lutheran sensibilities (although admittedly, I have not been able to fully sense this).

I propose these sensibilities are even more tacit guides of action. To give an example from Chapter 7, that private cemeteries are inconceivable for the *chef du cimetière* he explains as stemming from a concern about equity ('action-guiding idea'): All citizens deserve equal treatment. This norm is given explicit meaning in his discourse regarding a commitment to *laïcité bien comprise* (the 'issue framework'). Yet, as I point out to him, in laïc Switzerland private cemeteries are in fact

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allowed. Why then see private cemeteries as incompatible with *laïcité*? I conclude that the reason why he avoids this institutional solution cannot be explained by his argument; rather, we need to understand the underlying sensibility – a deep distrust of religious communities. Moreover, he does not like visible group distinctions in public.

2.3.4 The Role of Cultural Sensibilities: Talal Asad's Anthropology of Secularism

One possible interpretation of the example above is that the *chef du cimetière* relies on a culturally French understanding of secularity (by which I then mean 'religion as something to be distrusted'). And this sensibility plays a role for understanding why he is automatically against the idea of private confessional cemeteries. Thus conceived, Asad's work on the secular and secularism speaks directly to our discussion by addressing a potentially relevant cultural factor.

Indeed, in France, secularism (*laïcité*) has a discursive relevance. And at the level of sensibilities, distrust toward religion, is, indeed, *one* ingredient in this French respondent's reasoning. Asad's focus on secular sensibilities can thus – also for this study – productively highlight the implicit presumptions that people hold for justifying arrangements. Yet, upon closer scrutiny, Asad's approach lacks the methodological tools necessary to provide for coherent cross-national comparisons.

In the following, I explain why this is so, while also looking at two alternative Asad-inspired frameworks that solve some of Asad's problems. Yet, despite being more empirically sensitive, these too fail to address the question of their own theoretical presuppositions. So, constructively, I make a suggestion for a more coherent comparative framework.

In Asad's leading work on secularism and the secular (2003), his interest in secularism is genealogically based (see also Asad: 2018). Because secularism is a central category of modernity, Asad is keen on tracing how: "… it [secularism] presupposes new concepts of 'religion,' 'ethics' and 'politics,' and new imperatives associated with them" (2003, 2–3). Consequently, he studies the deployment and the political salience of the concept in the (colonial) structures of the nation-state.

Asad declares himself uninterested in providing a normative or ideological critique toward the vices of secularism, although he most certainly does so in a variety of publications (see 2006b, 2007). Nor is his interest descriptive, in the sense of stipulating a definition and then investigating what falls under that category (although he certainly works with an implicit definition). However, Asad's interest *is* comparative:

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> What is distinctive about modern anthropology is the comparison of embedded concepts (representations) between societies differently located in time or space. The important thing in this comparative analysis is not their origin (Western or non-Western), but the forms of life that articulate them, the powers they release or disable. Secularism – like religion – is such a concept (Asad: 2003, 17).

This passage is important since it shows that failure to provide for a coherent comparative research methodology is not part of an external critique but stems from within Asad's own theoretical premises. Asad aims to compare, between contexts, the deployment of the concept. To use his own words: "How, when and by whom are the categories of religion and the secular defined? What assumptions are presupposed in the acts that define them?" (2003, 201). Of interest to Asad is the force the concept of secularism has and the powers its releases or disables within the social context in which it is used. Furthermore, he inquires into its conditions: What forms of life, practices, and sensibilities feed into its understanding and articulation?

And it is Asad's shift to the input side of the concept – the category of the secular – that has made him so influential. Asad worked out his ideas on religion and the secular through a range of influential publications.[29] And he provides inspiration for a range of ethnographic studies that seek to critique notions of agency derived from liberalism, by looking at Muslims' ethical formation.[30]

Yet scholars have noted a range of problems with Asad's approach.[31] What I want to highlight here is the following tension: Asad wants to avoid definitions and leave the category open. He states: "It is precisely my concern to stress that the elements making up the secular and secularism are in each case contingent" (2006a, 228). Yet, he provides for descriptions of agency, pain, and torture in relation to embodiment *as* "explorations of the secular" (2003, 16). That means that Asad must hold on to something secular, as otherwise he could not be talking about any particular secular sensibilities.

Relatedly, it is unclear how his approach to secularism can form the basis for a comparative analysis, if his subject matter is "in each case contingent"? Along the basic logic of comparative analysis, we obtain comparability only "when two or more items appear 'similar enough,' that is neither identical nor utterly different" (Sartori: 2009a, 15). For this to work, Asad needs a placeholder. The question of *who* argues for and deploys secularism – and that there even *is* a deployer – becomes

29 See Asad: 1993, 2003, 2006a, 2006b, 2007, 2008, 2018.

30 E.g., Mahmood: 2003, 2005, 2006.

31 This not only reinforces the dichotomies between secular-religious, modern versus unmodern and West vs non-West. This form of situated inquiry is at the same remarkably insensitive to context. It posits enormously broad contexts, 'the West,' 'the modern world,' 'Euro-American societies,' etc., as large analytic containers without any attention to real people living actual lives (cf. Bangstad: 2009a). Further see Jansen: 2011; Dressler/Mandair: 2011.

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crucial. Yet, in the entire *Secular Formations* there is no answer to the question of who exactly argues or deploys secularism. Asad simply states this to be a master narrative and a series of inquiries about what "*we* have come to call the secular" (Asad: 2003, 25, my italics).[32] Framed differently, there is no secular subject.

Read as a pure counternarrative (and not an empirical description of the world) and an ideological one at that, Asad's account is useful, precisely because he keeps his audience ("us"?) unspecified, his contexts general, and his explored categories ('the liberal,' 'the modern,' 'the secular') undefined and vague. But what if we try to work with his approach for the purpose of an empirical comparative investigation?

Let me suggest one defensible reading: Asad's strategy could work when people in the particular context actually use the term secularism or the secular (or some emic proxy), although they mean very different things by it. In this case, the scholar can avoid an explicit definition and make an inventory of the different usages of the term and their connection to power structures. I call this *the strategy of actual deployment.* But, what to do in contexts in which agents do not use these terms (or close proxies)? In that case, what one is comparing is variations of the same idea that the scholar perceives as being about the secular: *the strategy of perceived deployment.*

Jumping ahead to the discussion in Chapter 7: In France, public agents indeed actively deploy terms like *laïcité* over others to argue for certain institutional solutions. Yet, these arguments are absent in Norway, where the state-church has a monopoly over the public graveyards because the local parish owns as well as administrates them. In this context, if we ask burial agents why they chose certain institutional accommodations for Muslims, they justify their choices, for example, in terms of 'respect for the others,' 'not wanting to provoke,' and that 'they (Muslims) should feel equally at home.'[33] The public agents involved do not understand this matter as being anything about secularism. In fact, some of them see their solutions and underlying reasoning as "actually not secular thinking at all."[34]

So, how do we decide whether a set of action practices or discourses count as an instance of secularism? To apply Asad's own question: "What makes a discourse and an action 'religious' or 'secular'?" (2003, 8).

One response could be to say that I am confusing here the usage of a *term* with that of the *concept*. These agents do not actually use the word, but if *I* as a scholar decide that the solutions chosen and the arguments made surrounding Muslim's burial needs count as arguments about 'religion' (and everything concerning religion is a form of secularism), then they nevertheless refer to the concept of secularism.

32 He says that he draws on material from West European history.

33 See the Discursive Chart, Table 7.1, Section 7.3.5 under 'central ideas mentioned,' Støren case.

34 Interview with the churchwarden in Støren, 18 October 2013.

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But that presupposes, first, a theory of religion on my part (equating Islamic burial practices with religion). Second, to avoid finding what I am looking for, I need a precise definition of what I think counts as secularism – or not. Third, even if I, the scholar, want to avoid a normative discussion of what secularism *should* be, this can hardly be avoided. Insofar as the Norwegian burial agents (or other relevant interest groups like humanists) in my study themselves attribute normative meanings to the term that conflicts with my scholarly ones, I have to at least acknowledge and specify that normative stance. If we frame the Norwegian burial regulations (in which the Norwegian state-church has a monopoly) as a type of 'Norwegian secularism,' my use of terminology thus takes sides in a controversy over the legitimacy of these burial legal regulations.

In other words, we are confronted with the question about the normative underpinnings of (comparative) scholars claiming to study secularity. How can Asad study "formations of the secular" while avoiding any operational definition of the phenomenon under study? What is *not a* case?

Asad's strategy has another unfortunate outcome: Hiding behind a generalized "we" to avoid the need for a definition obscures any possible distinction between (1) the framing of the researcher, (2) the meaning of the category for the reading audience ("we"), (3) the (different) meaning(s) of the category for the different agents in the situation explored. This is problematic insofar as the meaning of 'secularism' as an etic concept can conflict with the meaning of 'secularism' or 'secular' for the agents in the situation explored. It is problematic insofar as Asad himself claims that "one must work through the concepts the people concerned actually use" (2007, 44). Lastly, it reifies: Asad *makes* it about the secular without explicitly justifying why that is (and whose secular definition it is).

No doubt, Asad's *Secular Formation* is a landmark study. It deserves huge credit for being one of the first to interrogate a dominant narrative of modernity through the category of the secular. Furthermore, the shift toward sensibilities has inspired a wide range of scholars to investigate the lived experience of being secular.[35] Still, as a postmodern anthropologist, I think that he wants his framework to have empirical relevance. As he tells us as much in a 1996 interview with S. Mahmood:

> Once we get out of the habit of seeing everything in relation to the universal path to the future which the West has supposedly discovered, then it may be possible to describe things in their own terms. (…) The anthropologist must describe ways of life in appropriate terms. (…) These "intrinsic terms" are not the only ones that can be used – of course

35 In the essay 'Secularism and the Secular,' like Asad, Casanova explores the connection between secularism as an epistemic knowledge regime ('the secular' in Asad's parlance) and secularism as a political ideology. Casanova (2009, 1052) asks this question as a sociologist: How do "ordinary people" experience being secular?

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> not. But the concepts of people themselves must be taken as central in any adequate understanding of their life.

At this point, the more constructive question may be: How to make this agenda more empirically sensitive? I address two interesting proposals that partly achieve this, though ultimately they do not resolve Asad's main methodological problem.

M. Mandair and S. Dressler propose 'religion-making' as a key concept or critical term. Inspired by Asad's genealogical approach, this heuristic device "allows us to bring into conversation a wide range of perspectives on practices and discourses that reify religion (…)" (2011, 21). Much in the spirit of this book, they "aim to avoid the impasse between theory and empiricism that continues to be the hallmark of many books with a focus on the politics of religion and secularism" (p. 21).

To this end, they distinguish between three levels and modes: 'religion-making from above,' where religion becomes an instrument of power from above; 'religion-making from below,' where particular social groups in a subordinate position draw on a religionist discourse to establish (or re-establish) their identities; and finally, 'religion-making from (a pretended) outside,' which refers to scholarly discourses that help sustain the first two processes of religion-making by legitimizing and normalizing the religious/secular binary (p. 21). 'Religion-making from a (pretended) outside' is often linked to 'religion making from above': "the academic study of religion in particular has been implicated in imperialist projects and Eurocentric discourses more generally" (p. 23).

The second proposal by E. Hurd – to move "beyond religion" – introduces three similar yet slightly different heuristics: 'governed religion,' 'expert religion,' and 'lived religion.' Expert religion is "religion as construed by those who generate 'policy-relevant' knowledge" (2015, 8); lived religion is "practiced by everyday individuals and groups as they interact with a variety of religious authorities, rituals, texts and institutions" (p. 8); and she sees 'governed religion' as "construed by those in positions of political and religious power" (p. 8).

For Hurd, "the category of lived religion is meant to draw attention to the practices that fall outside the confines of religion as construed for purposes of law and governance" (p.13). But, as she notes, "(…) to distinguish between official and lived religion in this way is to risk reifying and romanticizing lived religious practice" (p. 13). The challenge, as Hurd herself diagnoses it, is to "constantly problematize a clear juxtaposition between everyday and official religion even while relying on these distinctions as heuristics devices (…)" (p. 13).

For Hurd, this is "a productive paradox" that draws attention to forms of religious lifeworlds that otherwise tend to fall between the cracks, "because when scholars and practitioners look for religion they seek out religious leaders and institutions,

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recognizable texts and defined orthodoxies, and religious authorities in fancy robes and impressive hats" (p. 13f.).

Hurd's interest is not the governance of religion, "how that which is identified as religion becomes subject to particular forms of governance" (p. 11). Rather, it lies in how these forms of law and governance, "once established," relate to the broader political, social, and religious lifeworlds with which they interact (p. 11).

In other words, she focuses on the prior process of categorization, namely, decisions about what falls within or outside the categories of religion in law and politics, and the effect of that exclusion on the lifeworld under investigation.

A few features make this an attractive approach. It can do better justice than Asad's largely Western secular, when applied to the different groups in society doing the deployment. By distinguishing between experts, the official organs governing religion (politics, law, official religious authorities) and the lived experience of those in the everyday world, it becomes obvious that all engage in their own way in constructions (although, remarkably, she does not call the 'lived religion' of her everyday world a construction).

Second, it shows that those constructions have real-life consequences and affect each other. How official representatives and public agents represent religion and what gets done to it affect how experts theorize about it and vice versa. (In our discussion, this resembles the link between 'categories or models of' and 'categories or models for'; see Section 1.2) This plays back into the self-understanding of the everyday world of participants who either align themselves with such an official position or oppose themselves.

Third, there is an underlying (normative) commitment to take the everyday world seriously. Crucially, it conveys that these constructions are always political. To call something religion is a political statement. But exactly for those reasons, the same question as with Asad remains.

If we look at Hurd's heuristic of lived religion, according to what and whose standards are these described lived forms of life in fact religious? Is the scholar presenting us with an answer to that question, as the participants of that everyday world define it *(strategy of actual deployment)*? Or is it the researcher who has singled them out to be religious *(strategy of perceived deployment)*?

In the latter case, what are the criteria for including or excluding certain practices as religious? Does the demarcation line fall with the status of the respondents: Is this a study of those who are *not* in power? So, if the religious leader is speaking, we count it as *governed* religion, but when it is the Muslim burial agent, it is *lived* religion. Is it lived *religion* because the burial agent is Muslim? Is everything Muslims say just instances of lived religion – or only when they identify themselves as religious? And what does that even mean? When they claim identity basing themselves on an official sacred text, do they then speak as religious subjects? But when they claim identity based on a cookbook, does it disqualify them?

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The basic point remains, as with Asad. Out of purview are reflections on the heuristics' own presuppositions: the scholars' own intervention in presenting us that picture of the lifeworld. They pretend that they can stand (neutrally?) on the sidelines, just 'charting deployment.' But this fails if there is no explicit term in usage.

In other words, how to decide (and, of course, who decides?) on the boundaries of the discourse? "What makes a discourse and an action 'religious' or 'secular?'" (Asad: 2003, 8). Hurd raises critical questions toward any possibility of knowing what religion is – it is always a construction, by some groups, for certain purposes. Yet, there is remarkably little doubt what the secular is. She remarks the following:

> To the extent that religion has assumed importance as a legal and policy category in international law and politics, […] governments, courts and other authorities are compelled to define it, […]. This dilemma, […] is a – if not *the* – distinguishing feature of modern secular power (Hurd: 2015, 11).

And here both Hurd's as well as Mandair/Dressler's heuristics share a common presupposition: Secularism is unproblematically presumed to lie *prior* to religion. It is not theorized as such, but that is the point of departure. They suggest presenting a metanarrative by looking only at how the defining of religion takes place. Yet, their approaches nevertheless align with a particular intervention in the debate on the genealogy of the secular.

One issue at stake in the debate over the secular is a deeply epistemological disagreement over the relationship between the secular and religion. Are they opposites, in the sense of what Taylor (2007, 22) labelled as 'subtraction stories'? This approach understands the secular from within an immanent framework as the decline of or overcoming of religion (a process of progressive emancipation).

Or are they inherently connected? If so, does the category of religion emerge from the secular, in the sense of coming to fruition in the Enlightenment and as nation-state tool, like it does in part for Asad? Or does the secular emerge from developments internal to Christianity? Then, should we evaluate this negatively (Casanova: 2010, 267)? Or is this a positive process of internal Christian secularization (Witte: 2014, 57ff.)? Different academic disciplines rely on different genealogies of the secular.

Both Hurd's and Mandair/Dressler's heuristics presupposes three things: It takes the discursive position for granted, suspicious of anything claiming essences. This is useful, for example, for dismantling an essentialist US political discourse of 'good' versus 'bad' religion (e.g., Hurd: 2015). Yet, it should not be generalized as *the* comparative methodology for secularism or religion. There may be good scholarly reasons to work with well-delineated categories.

Likewise, there is an underlying normative presupposition that categorization by a category like 'religion' is always suspicious. It is absolutely necessary to study cases

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in which the law unfairly excludes something because of an implicit Christian bias. Yet, this does not imply that *all* legal categorization by means of religious freedom is unfair. In other words, theirs is a total critique.

Third, in both conceptual universes (i.e., Mandair/Dressler's and Hurd's), secularism is always implied. As soon as something is construed as religion, we automatically have an instance of secularism or secular power. "In bringing to light the often hidden function of secularism as a religion making machine, this notion of the postsecular helps to release the space of the political from the grasp of the secularization doctrine" (Mandair/Dressler: 2011, 18).

As with Asad[36], this suggests that there is an underlying genealogy in which secularism comes first and then gives rise to the category of religion: "secularism as a religion making machine." While from a theoretical perspective this looks like a benign matter, it matters greatly in a fieldwork context.

To be clear, my engagement with these two analytic frameworks is not a critique of the specific terms of 'lived religion' or 'religion-making' as such. I do not intend to discredit or even engage with the range of studies on 'lived religion.' My point rather is a pure methodological and epistemological one. The scholarly presupposition of an implied secularism or secularity can stand in the way of interpreting burial agents' own vernacular understandings of their actions taken. I illustrate this in Sections 7.6.1–7.6.3.

2.4 Additional Methods

Let us now turn to the book's methodology. In my previous discussion of Schmidt's discursive institutionalism (DI), I developed the methodological tools for a nuanced discourse analysis. Furthermore, through my discussion of Asad, I suggested a methodological strategy for conducting discourse analysis in a comparative fieldwork situation where emic and etic understandings of the actions of respondents' conflict: distinguishing between 'actual' and 'perceived deployment.' Apart from these discourse methodological concerns, to which I return throughout the book, the study uses various other methods as well.

36 As Casanova (2006c, 21) similarly remarks: "Asad seems to assign to the secular the power to constitute not only its near-absolute modern hegemony but also the very category of the religious and its circumscribed space within a secular regime."

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2.4.1 Comparative Method, Multiple Embedded Case Study, and Ethnography

The study is designed according to a comparative method and multiple-case embedded design. Selection for the countries is based on grounds of a most similar systems design within comparative politics, applying a method of difference. The three countries have many characteristics in common, but they differ enough in terms of the explanatory variable to make a comparison meaningful. France, The Netherlands, and Norway are all Western democracies. Yet they differ in their constitutional reality and their legal relations toward religious organizations, each representing an ideal-type in a standard tripartite typology[37]: France is 'separatist'; Norway had an 'established national church' (until 2012); The Netherlands is a 'selective cooperation country' (cf. Robbers: 1996; Ferrari: 2002).

The central unit of analysis for this study is the interactions (processes and decisions) that lead to a concrete burial policy. I study this outcome and the related process in three national contexts and nine embedded cases studies (three in each country).

Three conditions satisfy the choice for a case-study method and design (cf. Yin: 2014, 9). First, this study poses a 'how-and-why' type of research question. I aim to describe as well as to partly explain differences in burial policy outcomes. Second, the focus of this study is contemporary as well as historical. Both a historical method and a laboratory experiment also ask 'how-and-why' questions, yet a mere historical method would not be sufficient. Furthermore, i.e., third, I aim to understand complex social phenomena from a holistic and *real-world* perspective.

That means that there are important differences and similarities with a laboratory experiment: unlike in a laboratory experiment, I have no control over behavioural events. However, I can study the phenomenon in different contexts with analytically relevant different features that might influence the phenomenon. Furthermore, what differentiates the case-study method from a laboratory experiment is that, in the latter case, the context is typically ignored because it is 'controlled' by the laboratory experiment (cf. Yin: 2014, 16). Case studies, however, are empirical inquiries that investigate contemporary phenomenon "in depth and within its real-world context, especially when the boundaries between phenomenon and context may not be clearly evident" (Yin: 2014, 16).

Nevertheless, there are also important similarities between the case-study method and the experiment, namely, both types of studies strive for analytic generalization.

37 Established legal typologies distinguish between established and nonestablished states, and within the latter between separationist and selective cooperation countries. France is separationist, and The Netherlands selectively cooperates with selected religious bodies.

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The goal is not to extrapolate probabilities (statistical generalizations) and to generalize them to populations, as is, for example, the case in a survey. Unlike a sampling logic, the embedded cases do not indicate the prevalence of a phenomenon, which would require many more cases studies – an impossible task for one book. Rather, the aim is theory development. Case studies are generalizable to theoretical propositions, in our case about the role of state-organized religion legacies in affecting processes/decisions (cf. Yin: 2014, 21 and 57).

Both the case study and the experiment first isolate and describe a phenomenon, after which they replicate the phenomenon under similar circumstances to see whether similar findings can be discovered. Or they repeat the study of the same phenomenon under different circumstances. In the case of the experiment, such replication might involve altering one or two experimental conditions to see whether the original findings can be discovered.

In our study, we look at the phenomenon of the processes leading to burial outcomes in three different national contexts with different national state-church legacies. And we replicate – or rather re-study – this phenomenon in nine embedded cases chosen, similar to an experiment, on a 'replication logic.' The embedded cases are picked with the expectation that they produce (a) similar results, called a 'literal replication logic,' or that they produce (b) contrasting results, but for anticipated reasons, called a 'theoretical replication' (see Yin: 2014, 57).

For each national context I selected two cities[38] (the capital and a nearby city) with a significant and growing Muslim population. I inquire about any similarity between the two cities and compare the national legal prescription. If indeed a national state-church legacy was relevant for the solutions chosen, I would expect both cities to provide similar solutions in line with the national prescriptions – but different from the cities in the other two countries. The two cities are thus chosen with the expectation that they provide similar results ('literal replication logic'). This includes Amsterdam and The Hague, Montreuil and Paris, Oslo and originally Lørenskog.[39]

38 To be clear, my unit of analysis is not a municipality. Yet, the demarcation line between municipal context and the embedded case becomes blurred. In all embedded cases, the main sets of regulations and processes are largely municipal in nature. This holds true with the exception of the case study of the Muslims in Lyon (who operate at an intermunicipal level of le Courly) and The Netherlands, where individual cemetery owners and private actors set regulations to a much larger degree. To capture this, I investigated all processes leading up to the outcomes, not just those of the municipality. Yet, I prefer to refer to "the Amsterdam case study" instead of "the reasoning and actions of all relevant agents leading to outcomes in the embedded case study in Amsterdam."

39 I carried out a first round of interviews in Lørenskog but omitted that city for lack of sufficiently qualified data and, as I explain later on, because of personal circumstances that stood in the way for completing the fieldwork here.

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The third embedded case in each national context is chosen to engage a rival explanation for variation, predicting contrasting results but for anticipated reasons ('theoretical replication'). These include the role and mobilization of Muslims themselves and, in the Norwegian context, the degree of rurality affecting the solutions chosen.

In The Netherlands, the city of Almere serves to investigate the observed discrepancy between the legal possibility of confessional cemeteries and the near absence of Islamic cemeteries. By investigating this 'unusual case,' we learn something about the conditions of its success. Furthermore, it engages one rival explanation for variation: the role of Muslims themselves.

In Norway, the first pilot study of Oslo indicated that largely Joint Parish Councils are the initiators, and the role of Muslims themselves is small. Thus, the case studies of Elverum and Støren serve to investigate another possible reason for variation, that is, the size of the municipality/degree of rurality. Oslo, Elverum, and Støren are equal in the sense that a liberal folk church is influential,[40] yet they differ in degree of rurality. The expectation in that case was to find contrasting results but for the anticipated reasons. Elverum is a rural, middle-sized town, Støren an even smaller town.[41]

The choice for the third case in France, Lyon, is that it is a city known for its large Muslim population and a very active Islamic political environment (including tense ethnic relations).[42] This can shed light on the role of Muslims themselves.

Four criteria serve to test the quality of the empirical social research designs: external validity, internal validity, construct validity, and reliability. Following Yin's (2011; 2014) tactics for dealing with these tests when doing case-study research, I secure external validity (Can the findings can be generalized?) by relying on a replication logic in the choice for the multiple embedded case studies, as described above.

To secure internal validity (How can we be sure that other factors are not causing the outcomes?), some of my embedded cases studies were chosen according to a theoretical replication logic. This allows me to investigate the role of rival explanations, albeit with some notable limitations.[43]

40 I thank Prof. D. Thorkildsen for pointing out this common 'liberal folkekirkelighet' and thinking through the rationale of choosing the Støren case study.

41 The degree of rurality is of course not so easy to determine. Elverum lies on the Eastern inlands of Norway, and, although it is considered 'rural' by its leadership, it is still relatively large and one of the centers in the Mjøsa area (Norway's largest inland lake). Støren is a very small town on the northern coast of Norway about half an hour away from Trondheim by train.

42 I thank Prof. J. Klaussen for bringing this city to my attention as a relevant case (private conversation, Stanford, June 2008, SIAS Summer Institute).

43 One limitation of this study lies in the lack of a historical discussion of integration policies for all

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The construct validity of a research design involves identifying the correct operational measures for the concepts being studied (in our case, those of 'burial policy outcomes,' 'secularism,' and a 'state-church legacy'). How can readers be sure that the researcher is not falsely interpreting the empirical outcomes as being about a state-church legacy or secularism? This required demarcating 'burial solutions/policy outcomes' as precisely as possible. (See Table 1.1 for a fine-grained operationalization.) Second, it required specifying a state-church legacy as an institutional factor (operationalized as a descriptive model or a discursive trope). I investigated the relevance of secularism at a discursive level: Was it relevant as a narrative, a term, or a sensibility?

This book is an in-depth investigation of this meeting point between scholarly interpretation and concepts, on the one hand, and the respondents' own meaning-making process, on the other hand. To make transparent how I interpret my respondents' discourse, see the detailed discussion in Chapter 7. Furthermore, to secure construct validity, I relied on multiple sources of evidence (elaborated below), and, where possible, I let key informants review the draft of the case study.[44]

Reliability (Can the findings be reproduced?) is secured by means of a case-study database. For each national context and embedded case, I made folders that systematized the raw material. They contained the original interviews, transcriptions, and all other materials collected for each municipal case. I also kept written fieldnotes or other physical materials in separate folders. However, reproducing the results was partly compromised by formal ethical regulations. Upon finalizing this project, I was required to remove all audio recordings and any possible keys for identifying persons within the transcribed interviews to ensure anonymity in accordance with the guidelines of NSD (*Norsk Senter for Forskningsdata*).

Alternatively, project reliability is secured by providing a detailed overview of all project and research questions at the five analytic levels of analysis (Appendix I). This reveals the overall structure of the project and allows for a distinction between questions asked of specific interviewees (level E), those at the level of the case study (level D), patterns across multiple cases (level C), questions asked of the entire study (level B), and broader conclusions regarding international research agenda's going beyond the narrow scope of the study (level A).

I discuss the data-collection procedures in detail below. Table 1.1 in the Introduction provides an important data-collection device; data-collection questions for the interviews are specified in Appendix II.

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countries. Such a discussion was omitted for two reasons: (1) feasibility (2) integration regulations do not typically address the topic of cemeteries (exceptions being Amsterdam and Elverum).

44 Regarding The Netherlands, I thank Mr. Schippers for his feedback. For the Lyon case study, I thank Mr. Elouefi. For Norway, I thank Mrs. Skrøvset for providing feedback on my 2014 article.

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My study follows a multiple case-study design and comparative method, but it can also be called "ethnographic" along the five dimensions outlined by Hammersley/Atkinson (2007, 3). First, it involves a study of people's actions and accounts in the field. Second, it combines a range of sources (further specified below). Third, categories for interpretation are not set a priori through questionnaires or observation schedules but follow the process of data analysis. Fourth, there is an in-depth look at a few cases. Fifth and finally, the analysis of the data concerns interpretations of the meanings and functions of human actions and institutional practices. This results in detailed descriptions and suggestions for explanations.

The data comprise 35 interviews, both recorded and unrecorded.[45] These are qualitative, semistructured interviews with open-ended questions. The data were collected during two rounds of fieldwork visits,[46] via email correspondence or phone conversations. Further sources of evidence include public documentation, archival records, participant observation as well as observation of physical artifacts during on-site visits.

Public documentation included, among other things, legal and/or public (municipal or state) documents (court cases, law texts), newspaper articles, municipal brochures, graveyard brochures, published surveys, or documents from the internet. I screened these documents for any information on general concerns with religious diversity in the cemetery or that of burial concerns of certain groups specifically (Jews, Muslims, Humanists). I looked at discussions over possible solutions chosen and the motivations underlying those solutions.

Archival records were consulted at *Les Archives de Paris* in Paris, the *Archives Municipales* in Montreuil, the *Nasjonalbilblioteket* in Oslo, and the *Koninklijke Bibliotheek* in The Hague. I used these archives primarily to find old burial laws or public documents about those laws in order to study motivations for former decisions.

Participant observation occurred in several ways. For nearly every embedded case study, I visited the cemetery and the office of the respective administrator. This led to my discovering that the physical artifacts provided for are very similar across countries. Furthermore, observing people work in their physical surroundings

45 Unrecorded interviews include telephone conversations, walks over the graveyards, or other situations where recording was inappropriate or failed. I made detailed field notes in these cases.

46 The first round of fieldwork took place under the heading of the New School University and with the permission of the Institutional Review Board-Human Subjects Committee at the New School. Dates of fieldwork: 2008 Oslo; 2009 Paris/Lyon (hosted by Science Po), and 2009 Amsterdam (hosted by IMES). The fieldwork carried out in 2012 and 2013 occurred with permission of the *Personvernombudet for forskning, Norsk samfunnsvitenskapelig datatjeneste AS* (hosted in Paris by Science Po, IMES in Amsterdam). Grants came from the Theological Faculty, University of Oslo, *Fondation de Maison des Science de l'Homme* (FMSH) and the Norwegian Research Council (NFR).

occasionally brought out subtle power dynamics. One example that I address further on is that of a French administrator in her office. It captures the entire French social context in a nutshell. I joined a French Islamic undertaker one day on the job. And I was grateful to take part in an Islamic funeral in Lyon. These visits helped me form an idea of the everyday context of Islamic burial undertakers or other burial professionals.

Comparing the physical dimension of solutions occurred by taking notes during on-site visits. I took pictures on some occasions, but I was not always allowed to take photos. In The Hague case, I provided instead for an institutional typography of the cemetery of *Kerkhoflaan* (Scheme 5.1).

By collecting information from multiple sources, I could triangulate specific case-study findings. Did other sources of evidence support the same case finding? For example, did public documents, interviews, and the on-site visit converge in the finding that the Islamic section was provided for because there was already a Jewish section? In some contexts, there was no official documentation, whereas in others the contexts produced a rich set of data.

While the lack of information in some contexts initially worried me, this varied outcome proved ultimately telling in and of itself. For example, the lack of written agreements in The Hague were indicative of the governing style: few formalities and mostly oral agreements occurring on an ad-hoc cooperative basis. The Paris case study, on the other hand, could be worked out in great detail because of an abundance of historical and contemporary sources. The material for Oslo did not lend itself to a discourse-analytic approach.[47] For corroboration, I combined sources of evidence and met with the same respondent several times, where relevant (Yin: 2011, 81).

Contact with informants was established through email or a phone call. Selection of new contacts occurred in two ways: either because a former informant had referred me, and a newspaper article brought the Elverum case to my attention. Alternatively, respondents fell in the category of persons designated for an interview. This includes (1) relevant lawmakers/jurists or public officials engaged in the law-making process; (2) decision-makers at the national or municipal level; (3) Islamic or humanistic representatives involved. (4) I also talked with a set of nonstate actors involved in the work directly related to the graveyard: burial undertakers, ceremonial leaders, or, where relevant, knowledgeable burial amateurs.

Each interview follows a rough protocol (see Appendix II). A set of general themes is discussed, but their order and form are open and adapted to the partici-

47 I relied primarily on a dissertation by Døving (2005), so the material was not suitable for a similar analysis as in the case of Støren and Elverum.

pant's knowledge. I adjusted to the circumstances and person I am talking with, as these varied greatly. I followed as much as possible the conversational style of the respondent. This served a nondirective and two-way interaction (cf. Yin: 2011, 134; Brenner: 2006). Below I say more on this, as well as about my experiences with a limited access to certain informants in France.

The narrative data from the recorded interviews were partly transcribed, but including only the relevant passages. This entailed passages where respondents explained their actions, motivations, hesitations, or ideas about possible solutions provided for (or avoided). I omitted transcribing discussions about legal burial procedures, historical political developments, or technical details about the burial process, unless these mattered for the respondent's own solution chosen.

That general information mattered, instead, to develop a broad institutional understanding (used for Chapters 3 and 4). The respondents exact wording served to show the usage of certain terms or how respondents framed the matter at stake. Alternatively, it showed that respondents relied on a similar narrative structure in their answer to humanist and Muslim burial needs, for example, in Norway. Regarding the question of secularism, I transcribed all passages where respondents explicitly used those terms, or where they were asked by me about its relevance. For reasons of space, I omitted the quotations in the original language, with some exceptions.

2.4.2 Fieldwork Challenges

Data collection can be messy. You can have a fully worked-out interview guide and all the required permissions, yet respondents fail to show up, they get angry, or they reveal all their interesting information *exactly* at the moment when the recording device is turned off! Doing research as a woman in a rather male-dominated institutional domain also led to occasionally hilarious, and sometimes rather uncomfortable, situations. For example, one respondent called me at 3 am to visit a grave in the city's torture museum! Another respondent invited me after 30 minutes of interview for a romantic 'stayover' during a visit to his residence.

Three sets of circumstances deserve more detailed mention because they directly affected my approach to collecting data and my access to certain types of informants – or they set limits to my attempt to collect information more generally. All three relate to my position as a beginning researcher and mother (Haraway: 1998).[48]

The fact that I was a beginning researcher sometimes impacted the interaction with, and access to, certain respondents. My personal circumstances and being the

48 Haraway's (1988) emphasis on positioning demands reflection on the part of the researcher over the ways in which power relations affect the research interaction with the informants.

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mother of a sick child affected the process of data collection in the last phase of the project on which the book is based.

The first example of what went presumably wrong relates to the general research question of secularism. Upon starting my fieldwork, I was unsure what variables such as a state-church legacy or secularism would look like in the field. I presumed that respondents usually do not ask themselves: "What would the institutional legacy of state-church relations want me to do?" But I found out that, occasionally, they did reference the history of state and church relations. It thus made sense to maintain my research question on the relevance of state-church legacies. Otherwise, they referred to normative principles like 'treating Jews and Muslims equally,' or they relied on logics/scripts like 'we want them to feel at home,' or simply the idea that 'religion should be private.' Therefore, it became useful to draw on Bowen's definition of schemas, which captures this: "sets of representations that process information and guide action" (2012, 357).

The absence of any reference to secularism in the Dutch and Norwegian context was more bothersome. Initially, I did not deem this an important finding. In my very first round of interviews in 2008 and 2009, I still mentioned the title of my project in formal correspondence with the respondents: "Secularism Revisited: A Comparative Study of Secularism as a Practice in The Netherlands, Norway, and France." But, later on, I began to understand that crucial comparative differences between countries were to be found in *how* respondents talked and framed the matter at hand. And that I, as a researcher, should avoid influencing my respondent's approach. As the project evolved, I thus became more careful with my own choice of wording and avoided further reference to terms like 'secularism' in correspondence and interviews.

Furthermore, I also began to ask (often at the end of the conversation) what respondents actually thought about secularism in relation to the cemetery regulations. Or, put differently, why they did *not* consider a certain solution appropriate. With this change in interview strategy, I did not intend to prove my own superiority, but rather I wanted to tap into the applied wisdom of institutional agents and to tease out their counterarguments and objections. Furthermore, it allowed me to register possible emotions, hesitations, or assumptions in relation to secularism.

This way of asking questions influenced the research interaction, although it is not easy to say how. Some respondents became insecure and uncomfortable; maybe they were intimidated by an unfamiliar vocabulary. Others became annoyed and critical (often expressing this once the recordings had ended). In both instances, it made for an uncomfortable and unnatural situation, which is why I tended to pose these questions late in the conversation.

These general fieldwork experiences (i.e., the lack of secularism talk) affected the way I approached my respondents and data. They highlight the need to remain

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open to the everyday language of my respondents and to be aware of the possible colonizing effect of scholarly terms. Asking explicitly about secularism made clear that the interview context is an unnatural situation where the researcher is in a position of epistemic power.

A second set of experiences emerged from my fieldwork in the French context. One of my very first interviews in 2009 with a French respondent was every beginning researcher's nightmare. I met with this respondent, who wants to remain strictly anonymous, in a Parisian café. Prior to the conversation, I had sent this person, whom I knew through a former informant, a range of questions by email. In my best French I had explained my interest for *laïcité* and its presumed incompatibility with Islamic sections. And yet, as I had pointed out to this person, these sections exist. So why not change the laws? Or how am I to understand this contradiction?

We met in the early morning. My respondents first sentence was something along the following lines[49]: "Please know that I am only here because of my loyalty to my friend …! From your email correspondence I have gathered that you understand nothing about French *laïcité*! These sections are mistakes! Who is your supervisor? If you had been working with some of the leading persons on this topic, Pascal Trompette, for example, I would have been willing to help you. But this person that you mention [I had given a reference in my email], I have no idea who this is. You are not a serious researcher *[Vous n'êtes pas sérieux!].* And as I said, the only reason I am sitting here is because of my friendship with …"

This person further asked me about my interview schedule. Upon answering that I planned to visit two Islamic undertakers in a nearby region of Paris, more accusations followed. "Did I understand correctly that these were illegals? Why would I talk to them? Why not do it the proper way and gain access though the organization that this person worked for? You probably found these people online, right?" Clearly, this person saw no point in talking to me …

I learned three important things from this very unpleasant conversation: First, *laïcité* is sacred to some and cannot be interrogated without having displayed the appropriate embedded knowledge of French culture. Second, Islamic demarcations, in whatever form, whether sections or in the form of Islamic undertakers, are offensive to some version of the Republican spirit. Third, proper status and the proper credentials are a necessary condition for gaining access to French public officials.

49 In the heat of the moment I did not dare ask whether I could record the conversation. These wordings are an approximation based on my memory and fieldnotes.

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This latter feature of French society also cropped up in my second fieldtrip. Taking these lessons to heart, I had refreshed my relations with a professor of political science at Science PO prior to my second fieldtrip. Yet, despite her help, I was still unable to establish contact with both lawmakers and decision-makers at the national level. The first problem was finding working email addresses or phone numbers. I did internet searches, screened formal texts for any contact information, but to no avail. Second, those persons I did find failed to respond, or were uninterested. Even worse, I had trouble gaining access even to *local* municipal administrators. I wrote emails, made phone calls but was, again and again, told that I needed official appointments and an authoritative person to get access to the main burial institutions. And spontaneous visits, people told me, were out of the question. The result was that, on this second field trip to Paris, after 3 weeks of what was supposed to be a 4-week fieldwork travel, I still had not obtained a single interview.

Two actions saved the situation: In the first week of my stay, the professor at Science Po had written a letter on my behalf to the *Le Service des cimetières,* which opened doors.[50] I finally got an interview with the highest administrator of the cemeteries on one of the last days. Second, when, only a week before my scheduled departure, the respondent of my then only scheduled interview declined, I decided to risk humiliation. I took a bus to the cemetery of *Thiais*, which is one of the largest in Europe, covering a total of 103 hectares with 130 divisions – you can drive a car through its avenues. It is surrounded by large walls and has an imposing gated entrance with guards! By a stroke of luck, I made it through the gates without having a formal appointment and was guided to the conservatory building.

I asked for a conversation with the residing conservator and was guided to a small office: The interview did not go very smoothly. But then my luck turned: Toward the end of the conversation, my eye fell on a large map of the cemetery of *Thiais* hanging above her desk where she had marked in color the different sections and scribbled the name of the particular group in its margins. It read 'Buddhist,' 'Asian,' 'Islamic,' 'Iranian Muslim,' 'Albanian Muslim,' 'stillborn.' "Oops?" I remarked pointing to the map. She blushed. She needed a way of keeping track of all these divisions, she said. "As long as it hangs here and I do not show this in public, I think I am fine."

The upcoming chapters will make clear to the reader why this is French public reasoning in a nutshell (see Section 8.4.1.1) – and why this blushing and reasoning stands opposed to, for example, that of the Dutch burial agents. When I asked how the cemetery director in The Hague had dealt with the Muslim Shia and Sunni differences, he said, "Oh, that was easy": He had just put a high hedge in between.

50 I thank Professor R. Kastoryano for her help.

"Then they do not need to be bothered by who lies on the other side of the hedge." He also had no problem respecting the Islamic wish to have only one body in each grave. "But in that case, they have to pay for two bodies," he said, as the lease on each grave spot is given out for two persons.

The interview at *Thiais* was a turning point for my French fieldwork. It snowballed into a range of other interviews, all in the last days of my stay. It also turned my focus toward the local administrator's everyday material circumstances (e.g., the map hanging above her desk), away from formal regulations.

As can be seen above, the position of a beginning researcher can limit one's access to certain types of respondents. Yet, in retrospect, this position might also have been conducive to some of the project's primary findings: the importance of a material reality and an existing *logique du terrain*. If I had been able to schedule a range of interviews with French lawmakers, I wouldn't have had the time to navigate the cemeteries of *Père-Lachaise*, *Thiais*, and *Pantin,* and to visit local decision-makers in their office. Furthermore, my near failure to gain access to public officials, even at the local level, might also illustrate how much more politically sensitive cemeteries are in Paris as opposed to Amsterdam or Oslo.

Finally, I would like to explain some of the personal context in which this book developed and which has affected in particular the validity of my Norwegian material. Since the project's beginning, I have given birth to three children. My first two children each took their share of time in the form of pregnancy troubles, births, and the usual Norwegian state-sponsored parental leaves. I did fieldwork interviews with a baby at my breast and a 5-year-old playing in the cemetery. I edited an anthology (2012) late at night during my second parental leave, with the children (finally!) asleep. Highly pregnant, I presented an anthology (November 2013) at the book launch at the American Academy of Religion. What I thought was hard work at the time proved to be peanuts in hindsight.

With the birth of my third child in early 2014, any sense of normal everyday life vanished. My son was a gorgeous tiny baby. But over the course of time we learned that he was not only deaf and blind, but also would not be able to sit, stand, or walk. I relate this fact to explain the project's very slow progress, actually near standstill, from early 2014 until August 2018. In the first two years of my son's life, I still pushed for as many work moments as I could muster. As a Dutch doctoral fellow living in Norway, I had finished the fieldwork in The Netherlands and France, but had plans to carry out a final round of interviews in Oslo and Lørenskog. This all changed when, in June 2016, we heard that even more was wrong with my son than presumed. I abandoned all further fieldwork, although that would have indeed improved the validity of my Norwegian cases. And I stopped all further data collection. These circumstances delayed the project for several years and made some

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of the material more dated than desired. On the positive side, the circumstances also allowed the project to mature. My son died in December 2017.

2.4.3 Clarification of Terms

I would like to end this chapter with a few notes on terminology. In the book, I refrain from calling actions or ways of reasoning 'secularism' or 'secular' unless my respondents (or the formal texts) specifically do so themselves. An exception to this rule is the translation of Norwegian humanists (*livssynssamfunn*) into 'secular community' (used to juxtapose Islam as a 'religious community'). This is a better English translation than that of a 'life-stance community,' the common Norwegian translation.[51] In the French context, I translate *laïcité* as 'secularism' or simply used the emic term.

As a way of providing some analytic structure to an otherwise confusing conceptual realm, I follow Casanova (2007) in distinguishing between 'secularization' as a historical and sociological process of societal differentiation, 'secularism' as a normative, political doctrine or worldview, and 'secular' as either an adjective describing 'nonreligious' practices or as an epistemic category (a way of understanding the world). In this book, I am primarily interested in the institutional and normative reasoning of agents, what could (but maybe should not) be called secularism. Furthermore, like Taylor and Asad, I touch upon the notion of 'sensibilities,' what could (but maybe should not) be called secular sensibilities.

By 'organized religion' I mean an organized and institutionalized community or group. The decision whether the group under study qualifies as religious or not depends on the meaning that the group, or the members thereof, attribute to themselves. Alternatively, it depends on the way they are viewed and constructed by the decision-makers and/or representatives of the relevant institutions involved. (I thus apply a strategy of actual deployment.)

This study did not encounter conflicts between the laws[52] or a group's self-definition as 'religious' or that of other relevant decision-makers/agents. This stands

51 I thank Mr. Smith for bringing this to my attention.

52 In The Netherlands, the right to confessional cemeteries or a confessional section within a public cemetery is secured by law for each 'church community' (*kerkgenootschap*). There is no legal definition. Yet, Muslim and Jewish official representative organizations are unproblematically seen as falling under this banner. In Norway, the possibility to have private cemeteries is secured for each registered religious community (*trossamfun*). This has relevance in distinction with an unregistered religious community (*uregisterte trossamfunn*) or what Norwegians translate as 'life-stance community' (*livsynssamfunn*). Muslims fall in the first category, humanists in the third. In France, *le culte* ('organized religion') stands opposed to '*croyance*' (belief, faith). A religious association (*cultuelle*) obtains legal status when it complies with the requirements of the 1905 law. A cultural group (*culturelle*) must comply with the requirements under the 1901 law. State-guaranteed freedom

opposite to, for example, Sullivan's study (2005).[53] Yet, where prevalent, I register disagreement over naming.[54] In my general discussion of other scholarly works or legal regulations (thus not the fieldwork), I take more liberty in calling groups 'secular' or 'religious.' I do this inasmuch as it clarifies the intention of the laws or authors (who use these terms themselves); or when it is simply better English.[55]

By institutionalization or 'institutional accommodation,' I refer to a two-way process: that of claim-making by the minorities and that of institutional adaptation on the part of the (local) institutions. I avoid the term 'integration' except when referring to a public debate in which these terms are used.[56] 'Institutional regimes' refer to "configurations of public policy institutions that are organized in a distinguishable way and that function according to an institutional logic" (Bader: 2007b, 872). One can analyze institutional arrangements in distinctive societal spheres like education, health, religion, or urban planning.

Consideration should be given to the term 'cemetery' and 'graveyard.' The most neutral term in English is 'cemetery' as opposed to 'graveyard' or 'churchyard.'[57] Although 'graveyard' is a good approximation of the more neutral terms in Dutch and Norwegian (*begraafplaats* and *gravlund* as opposed to *kerkhof* and *kirkegård,* respectively, in English it has the connotation of a burial ground lying next to a church. I thus use 'cemetery' as the general term. In the Norwegian discussion, I refer to 'graveyard' (*gravplass*) or 'churchyard' (*kirkegård*) if this corresponds to the words chosen by the respondents or present in national documents – or when I think it better conveys the fundamental link to the church in the discussion.[58]

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of organized religion (*les cultes*) is limited to the domains of celebration (the mass), its buildings, and its teachings (cf. Bowen: 2007, 17). Confessional cemeteries/sections are beyond its purview.

53 This study looks at the legal conflict over banning memorials from a multiconfessional nondenominational cemetery in Florida, where legal definitions of religious freedom stood opposed to a group's self-understanding and attempts to preserve the practice of placing religious artifacts on the graves of the city-owned burial ground.

54 In the case study of Amsterdam, there was disagreement over who is considered Muslim. The main Norwegian Islamic burial agent (Al-Khidmat) does not cater to Ahmadiyya, who are not considered Muslims.

55 In Dutch, humanists are referred to as a *levensbeschouwelijke groupering* (group with an ethical worldview) as opposed to *kerkelijke gezindte* (churchly community). In Norwegian, they are a *livssynsamfunn* (life-stance community) as opposed to a *trossamfunn* (faith community). In French, the relevant legal criteria run between that of *le culte* (organized religion) as opposed to *religion* or *croyance* (belief, faith), a matter of individual observance. With regard to state recognition, it runs between *les groups cultuel* (organized religions) and *les groups culturelle* (cultural groups).

56 For a valid criticism of 'integration' as an etic terminology, see McPherson: 2010.

57 I thank Mr. Smith for making me aware of this connotation in English.

58 For Norway we could say that the term 'graveyard' is exactly a perfect translation of even its most updated term of *gravplass*. Thus, the Norwegian cemetery is still really a graveyard.

Aiming for neutral scholarly language is a laudable regulative idea, but it is not always an easy task. This becomes clear when applying the generic term of cemetery to the French material. Christian connotations are nevertheless implicit in the French proxy for cemetery: *cimetière*. Ligou (1975, 63) traces its genealogy back to the words 'coemeterium' and 'atrium,' two Greek words that indicate "the place where the Christians await their resurrection."

I prefer to speak of 'state-organized religion relations,' rather than 'state-church relations.' The former captures a broader realm of interaction and avoids an all-too Christian-tainted terminology and approach. Yet, sometimes the reference 'state church' better enables readable sentences.

Here a few more details on this variable for which I rely in the following paragraph on Breemer/Maussen (2012, 280). A range of typologies concern state-organized religion models: (1) In comparative legal studies, scholars typically distinguish between systems of separation (United States and France), systems with an established church (Britain, Denmark, and Norway), and corporatist and Concordatarian systems (The Netherlands, Germany, Italy) (cf. Ferrari: 2002). Here the focus lies on the constitutional relations. In separation countries, no recognized state church exists, nor does the state fully finance religion.

More common in comparative political science, scholars focus on (2) country models as sets of underlying principles (cf. Monsma/Soper: 1997, 156). In this view, the model extends to encompass ideas, governing traditions, and policy legacies (see Fetzer/Soper: 2005). There are also more reified and one-dimensional typologies, such as the idea that France corresponds to a 'laic model,' The Netherlands to a 'pillarized model' (cf. Koopmans/Statham/Giugni/Passy: 2005), or Norway is 'established.'

Other typologies (3) proceed from a similar idea of underlying principles or schemes. But here, the national model is seen as internally heterogeneous. Because state-organized religion regimes developed over time and contain a range of policy legacies, the model is likewise internally plural. Religious policies or normative approaches to religious minorities can vary between institutional domains or between *different minorities* in question (Maussen: 2009). Furthermore, national models are historical products containing "within them multiple lines of reasoning and emotion" (Bowen: 2012, 1005). Lines of reasoning can be equivocal and stand opposed to or even contradict one another.

The sum result of all this is the state-organized religion regime, which includes laws and regulations specifically designed to regulate the relationship between religion and state (e.g., the French law of 1905). But it also includes policy legacies that have been applied to religious minorities (or majorities) in concrete domains (e.g., education, prisons), informing the larger political culture.

Doing full justice to the development of state-organized religion relations in three countries lies beyond the reach of this book. To limit the discussion, I rely

on the typologies of Maussen and Bowen for France and The Netherlands. Only for Norway do I actively add an element to the existing typology of 'establishment,' that of (municipal) des-establishment schemes (Breemer: 2014; 2019). This means that my conceptualization of state-organized religion regime here becomes both that of an independent and a dependent variable.[59]

In this book I use normative principles, scripts, or schemes interchangeably. Bowen defines schemes as "categories, images, propositions often deeply psychologically embedded in actor's minds, that may coexist without necessarily being consistent and that may be weighed differently from one moment to another" (2012, 354).[60] In Chapter 3, I return to a discussion of these scripts in the heterogeneous model, placing them within a historical context.

2.5 Conclusion

This chapter outlined the contours of a multileveled discursive (religious) governance approach that serves as the theoretical framework of this book. Building on Bader, I supplemented his framework of religious governance with insights of two types of actor institutionalism: that of Scharpf (ACI) and of Schmidt (DI). This served to develop a more precise account of the relationship between actors, institutions, and ideas/discourse.

In line with Scharpf, I adapt a similar back-reasoning approach to burial outcomes. The basic unit of analysis of this project may be found in the processes that lead to burial outcomes, after which we localize the relevant agents and institutions in each local case. (The study design involves nine embedded cases in three national contexts.) Interactions between multiple actors are structured, so that the outcomes are shaped by the characteristics of the institutional setting in which they take place.

Scharpf and Bader both take agency and institutional embeddedness seriously. Yet, these accounts do not further specify the mechanism of action and discursive processes by which agents appropriate these institutional scripts.

Discursive institutionalism is useful for this purpose. In Schmidt's understanding, institutions are both (implicit and given) meaning structures as well as contingent ideational constructs. This conception of institutions better explains institutional change.

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59 As an independent variable, the question is: Do its elements have discursive or explanatory value for burial solutions chosen? As a dependent variable, we ask: Do we see other ways of public reasoning that could be added to our conception of the Norwegian model?

60 Changes in policy are explained by the fact that public agents draw on several relatively stable working schemes, while weighing these schemes differently from time to time or from issue to issue.

For our purposes, Schmidt's conception allows looking at the ideas of burial professionals as an entry point into causes. And this burial discourse might reveal the mechanisms of action: How is a state-organized religion legacy de facto appropriated? Furthermore, in line with Schmidt, I adapt a distinction between different levels of ideas (1) explicit ideas mentioned for guiding action, (2) issue frameworks, (3) a level of cultural confessional narratives and implicit sensibilities. This gives me the methodological tools for a nuanced discourse analysis.

My discussion of the work of Asad, in the second part of the chapter, extended the discourse analytic focus of the book. Furthermore, it investigated how to meaningfully pose the question of the relevance of secularism or secular sensibilities. Asad's work speaks directly to our discussion as addressing a potential relevant cultural factor. Yet, integrating Asad's genealogical approach into Bader's broader governance framework proved more challenging. This exercise entailed combining two analytic traditions that are not necessarily in agreement: that of the more standard comparative historical social sciences and a genealogical approach in the tradition of M. Foucault.

Nevertheless, I suggest one way in which the Asadian proposal and that of some of his followers can be made more methodologically "fitting" within the larger framework of (religious) governance. A distinction between 'actual' and 'perceived deployment' (Section 2.3.4) can make Asad's question "How is secularism used and argued or?" more suitable for empirical and comparative research.

With this proposal, I suggest that the more standard comparative sciences can make use of the laudable insights coming from this genealogical tradition. But they do not have to buy into the totalitarian critique implied by the Asadians. Nor do we have to do away with all Western and liberal concepts. Recognizing the inevitable cultural and political embeddedness of language and the inevitable normative load of terms should not prevent scholars from developing (better or worse) transcultural concepts and translations. History is not destiny.[61]

However, so I suggest, taking the deconstructive point to heart (maybe even more seriously than Asad), requires that scholars relate their etic framing to discursive

61 The fact that terms arise from one cultural context does not mean that, when minimally defined, they cannot capture relevant similarities and differences elsewhere as well. Bader relies on a form of minimal universalism. We might not know what 'freedom,' differing from context to context, means, but we could all agree that it excludes practices of slavery. Specified for the purpose of normative political theory, he proclaims himself to be 'moderately contextual.' Moderate contextualists allow for context-transcending principles but insist on relating these principles to different contexts and cases to explain and develop their meaning (cf. Bader/Sawaharto: 2004, 110).

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everyday understandings.[62] And they need to be open to the possibility of choosing other scholarly terms in case emic and etic meanings conflict.

My brief discussion of the analytic frameworks of Mandair/Dressler and Hurd served to show how these analytic frameworks have successfully addressed some of Asad's empirical blind spots. Yet, at the end of the day, like Asad, they fail to address the question of their own methodological and epistemological presuppositions.

I closed the chapter outlining the rationale of a comparative method, ethnography and multiembedded case-study design as additional methods for addressing these theoretical issues above.

62 This holds, of course, insofar as engaging the everyday world or experience of ordinary citizens is part of their research objective.

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Chapter 3: Legal Burial Regimes, State-Organized Religion Regimes, and Their Historical Genealogy

3.1 Introduction

The previous chapter provided the outline of a broad analytic framework for analyzing state responses to diversity and the role of, among other things, institutional regimes. In this chapter, I investigate two such institutional regimes: the burial regime and that of state-organized religion relations. This investigation lays the groundwork for the analysis of contemporary responses to 'new' diversity in Chapters 4 and 5.

It is well known that cemeteries are governed by a variety of institutional regimes. Among other things, they are the object of urban planning, public hygiene, and general public order. But environmental issues also play a role, for example, in determining the suitability of the soil, the preservation of nature, or water-level concerns. For our purposes we want to know what laws regulate the forms of ownership and the rules of access in general, and the role of religious diversity in the cemetery in particular. In most states, cemeteries are regulated by national or regional law.

Three sets of questions are important for each country: (A) What are the characteristics of cemeteries in terms of institutional governance? Are they part of the public domain or are they privately owned? Who owns, pays for, and determines the rules of the respective cemetery? (B) What (normative) considerations do lawgivers have when choosing these institutional formats?[1] (Both A and B are discussed in Section 3.1.[2]) (C) How did these different institutional formats come into being?

This latter historical question concerns how a common set of domain-specific factors, such as concerns with hygiene and public health, affected the countries' burial laws. In addition, I consider the extent to which specific state-organized religion dynamics were at work. For this second institutional regime, I look at how this factor explicitly entered the historical discussions surrounding the first burial laws (Section 3.2).

The chapter ends with a general history of each country's state-church relationship (Section 3.3). The latter serves to provide the reader with an even broader understanding of the historically formative moments of these countries for the

1 I base my reading of these legal texts on interviews, public documents, and secondary literature.

2 For (A), I rely in part on Breemer/Maussen (2012, 283) in describing the French and Dutch situation. For the Norwegian situation, I reference parts of Breemer (2014, 177–178).

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discussion of burial practices in the later chapters. And, as a continuation of the discussion of terminology in Section 2.4.3, it allows me to substantiate the choice of the schemas for the heterogeneous state-church model as formulated in Section 1.2. The chapter concludes with a summary of the legal burial outcomes in each country (Section 3.4).

3.1.1 The French Cemetery

France regulates its burial concerns in a collection of articles in the so-called *General Code of Autonomous Regions* (hereinafter GCGT),[3] which is applied at the municipal, intermunicipal, departmental, and regional levels.[4] I refer in the following text to the articles in the GCGT, unless otherwise specified.

The cemetery is considered an *ouvrage public*, a 'public work,' which is "public, mandatory, and laic" (Seur/Lecerf: 2006, 19). Because of the public status, only the municipality can maintain, create, or offer cemeteries. The Napoleonic Decree (1804) abolished confessional cemeteries. Yet, in municipalities in which there was a plurality of confessional groups, the municipality could maintain parts of a municipal cemetery for them (Article 15).[5] The Napoleonic Decree thus 'municipalized' but did not completely 'deconfessionalize' cemeteries (cf. Ligou: 1975, 72–74). Confessional sections in fact were prohibited only in 1881.[6]

Today, municipal cemeteries fall under the authority and the supervision of the mayor, and their upkeep falls within the municipal budget (Article L.2213–10). Exceptions may be found in a handful of old confessional cemeteries dating from the period before the Napoleonic Decree (1804) which exist under private ownership or have been made part of a communal or intercommunal cemetery.[7] However, these confessional cemeteries cannot be enlarged. Furthermore, three departments in the region of Alsace-Moselle (Haut-Rhin, Bas Rhin, and Moselle) still operate under regulations of the Concordat. For historical reasons, the dispositions of the Napoleonic Decree still apply here. That means that, in municipalities where there

3 *Code Général des Collectivités Territoriales* (CGCT). In particular, Section 2: Police des funérailles et des lieux de sépulture (Articles L2213-7 à L2213-15), https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006070633/LEGISCTA000006180978/#LEGISCTA000006180978 [accessed 10 February 2021].

4 Articles in the *Code Civil* and the *Code Pénal* also apply to this domain, in addition to nationally ordained laws: *Loi n° 2008–1350 du 19 décembre 2008 relative à la législation funéraire*.

5 The full name is 'The Decree of 23 Prairial an XII' (12 June 1804): *Le Décret du 23 Prairial an XII*.

6 The 1881 law is 'The Law on the Neutrality of the Cemeteries': *loi sur la neutralité des cimetières*.

7 A decree from February 10, 1806, allowed Jewish communities to maintain their confessional cemeteries. Likewise, some Protestant cemeteries exist under a private construction.

is a plurality of confessional groups, each can have its own cemetery or reserve parts of a municipal cemetery (Article L.2542–12).

The municipal cemetery is mandatory in the sense that everyone *should* be buried there. Each municipality or intermunicipal collective is obliged to reserve a certain amount of space for burial and cremation, relative to the number of its inhabitants (Article L. 2223–1). Municipalities can offer concessions of 15, 30, or 50 years – or even 'infinites' (*perpétuelles*).[8] Everyone has the right to burial, with municipalities providing a free grave for 5 years.

The French cemetery is considered laic because a 1905 law[9] prohibits the display of any religious symbols on public monuments or in the public domain. The display of religious signs on individual graves, funeral monuments, museums, or expositions is exempted from this rule (Article 28). Second, a law from 1884 stipulates that, in the exercise of their function, third parties, in the wordings of the current CGCT, should "make no distinctions or recommendations based on the belief or religion of the deceased, or the circumstances that accompany his/her death" (Article L.2213–9).[10] A law from November 15, 1887[11], further adds that adults or 'emancipated minors' can arrange the circumstances of their own funeral, "in particular all that concerns its religious or secular nature" (Article 3).[12] Violations of the will of the deceased or the deceased person's family are sanctioned by the Penal Code (Articles 433–21–1 and 433–22). This in turn is unknown in Dutch and Norwegian burial regulations.

In terms of the main (normative) considerations[13], in French law the will of the deceased is of highest importance, securing individual freedom of conscience (Article L.2213–13). Second, the local mayor is supposed to remain entirely neutral (Article L.2213–9). The motivation for these articles has its roots in a 19th-century idea of protecting the will of the deceased against any unwanted intervention by religious authorities. Vice versa, the articles also ensure that, if the deceased has expressed the will to be buried in a confessional grave, the mayor is not entitled to refuse this. "The public cemetery must respect the right to believe, as it respects the right to dis-believe" (Machelon: 2006, 61, my translation).

8 The latter option has been abolished in most municipalities (Article L2223–14).

9 *Loi du 9 décembre 1905 concernant la séparation des Eglises et de l'Etat.*

10 The 1884 law is applicable to the organizational structures of the municipality: *Loi du 5 avril 1884 relative à l'organisation municipal.*

11 *Loi du 15 novembre 1887 sur la liberté des funérailles.*

12 The freedom to arrange one's own burial is further supported by the freedom of families to arrange the funeral according to their wishes, financial means, and capacities (Article L2213–11). No prescriptions can be made, "whether of a civil or religious nature" (Article L2213–13).

13 There are obviously various normative (and practical) concerns that differ depending on the context.

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3.1.2 The Dutch Cemetery

In contrast to France, The Netherlands enable a wide variety of cemeteries. This is primarily regulated by a national burial law, the "Bill on the Disposal of the Dead" (*Wet op de lijkbezorging* from 1991, hereinafter Wlb), which stipulates that cemeteries can be public or private. In the following text I refer to the articles in the Wlb as they apply January 2021 unless otherwise specified.

Since 1827, each municipality has had to provide for a municipal graveyard, or to share one with a neighboring municipality (Article 33). Yet, only one-third of the approximately 4,000 cemeteries in The Netherlands are owned, administered, and paid for by municipalities; two-thirds fall under the category of so-called 'special cemeteries' (*bijzondere begraafplaatsen*), meaning they are owned by different confessional groups or by private legal entities (foundations or even 'for-profit' companies) (Article 37.1).[14] Family graves on private property used to be possible, but this option has since been legally abolished.[15]

The mayor and city council determine the rules that govern the municipal cemeteries through what are called *beheersverordeningen*. But as we will see, there are also some mixed forms. The owners of special cemeteries retain the decision-making power, through graveyard regulations (*begraafplaats-regelement*). That means that, in contrast to the French situation, the mayor has a much less formal role to play.[16] 'Special' cemeteries operate independently of municipal interference and set their own graveyard regulations concerning daily operations and right of access. Nevertheless, they are constrained by national legislation (Wlb) and municipal regulations, for example, regarding a minimal burial period of 10 years and the extension or creation of special graveyards (Article 40.1).[17]

Also, quite unlike the French situation, religious communities (*kerkgenootschap*) enjoy a broad set of rights. They are entitled to operate one or more graveyards relative to the total amount of space available for this purpose in the municipality

14 Informal estimates speak of 1,487 municipal and 2,733 confessional cemeteries, 267 of which are Jewish. I thank Mr. Bok for sharing his list with me. Examples of for-profit companies are Yarden, de Facultatieve, or Monuta, which are insurance companies that operate transnationally. They own crematoria and cemeteries and sell various products and technological expertise.

15 It is still possible to construct a special cemetery on one's own property with permission from the municipal board and the regional inspector of Public Health and Environmental Hygiene.

16 The mayor, however, remains, among others, responsible for providing the possibility of autopsy (Article 4), decisions regarding the request to bury or cremate before 36 hours of death (the legally required period) (Article 17.1), take care of the deceased when no family or other relatives exist to take care of the autopsy or burial (Article 21).

17 The mayor and city council determine the measures for making the soil suitable for cemetery construction (Article 40.2).

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(Article 38). The confessional group buys the land[18] and manages the cemetery according to its own standards of membership. Furthermore, the municipality can allow them to have more or larger churchyards, "within the limits of the rights of other church communities to a similar provision (…)" (Article 38, lid 2).

The Dutch cemetery can thus be both a public and a private domain when religious communities, companies, or private individuals are the owner. In addition, there are a variety of mixed forms of ownership and management. For example, a municipal cemetery is always the property and legal responsibility of the municipality, though it can be (a) managed by the municipality itself, (b) a part of the municipality, which has to arrange for its own finances and run it like a company, though not for profit (*gemeentelijk verzelfstandigd*), or (c) a private 'for profit' company (*gemeentelijk uitbesteed*).[19]

Municipalities may also reserve a section in a confessional cemetery, in which case the confessional group still owns the cemetery, although the municipality manages and administers its part.[20] This way of fulfilling the legal obligation for municipal burial space is not currently prescribed in the Wlb. Yet, as we discuss further below, its form emerged from a historical context in which there was resistance to the 1827 obligation to provide for municipal graveyards.

Furthermore, out of this historical context the obligation arose to assign a confessional section within a municipal cemetery to each church community, if the church community itself did not possess a cemetery of its own (cf. Hoog: 1870, xxvii).[21] This legal right is currently expressed in Wlb Article 39.1, in which case the municipality remains in charge of managing, maintaining, and administering that confessional part. Yet decisions about the design, the material form, or its usage are made in deliberation with the confessional community (Article 39.2). Confessional sections in Dutch cemeteries can thus differ considerably from the French *carré.*

Finally, there is a range of options concerning types of graves. A grave with an 'exclusive right' (*uitsluitend recht*) is bought for a minimum of 10 years, though this limit can be extended and allows for family regroupings since the holders of the grave rights may choose the location (Article 28). 'Common graves' (*algemeen*

18 Municipalities are encouraged to transfer the ownership of the land to that of the church community "under reasonable conditions" (Article 40.3), though this is not always possible.

19 In the case of (a), municipal regulations apply. The municipality takes care of the maintenance. In the case of (b), the cemetery owner regulates and maintains. In the case of (c), "municipally delegated" maintenance and management are further delegated to a private company. Interview funeral expert, 25 March 2009, and legal burial advisor, 10 August 2012.

20 The municipality sometimes buys that parcel from the church community.

21 See also Article 19 in the Dutch 1869 burial law.

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graf) have a grave-rest time of 10 years; family groupings are not possible.[22] Yet, these graves are cheap. Free graves do not exist as such, though mayors have the obligation to bury citizens without relatives or financial means.

In the Dutch burial regulations, we find two central normative concerns: respect for the will of the deceased and the individual freedom to choose the burial ritual.[23] The Wlb formulates this very generally: "The corpse's disposal should take place in conformity with the wish, or the presumed wish, of the deceased (…)" (Article 18.1). A variety of institutional options allows this in a real sense. Second, concerns with collective religious freedom and collective equality play a central role. All religious communities can own, construct, and manage their own cemeteries, though this freedom is not coupled to any financial state support.[24] And it is constrained by equal treatment *among* groups (Article 38, lid 2).

3.1.3 The Norwegian Cemetery

A look at Norway reveals two primary laws governing the burial domain. There is the 1996 Funeral Act and the 1996 Church of Norway Act.[25] An important difference to France and The Netherlands becomes obvious, where church laws (or canon laws) have lost their relevance. Both Norwegian laws have been updated since January 2012.

Norwegian cemeteries come in two forms, public and private. Burial can take place in a public cemetery (*offentlig gravplass*) or in a cemetery as constructed by a "registered community of believers" (Funeral Act, Para. 1).[26] It is also possible to construct a family grave plot in a private cemetery with permission from the "county official" (*Fylkesmann*) (Funeral Act, Para. 20).[27]

Until January 2012, the first form, the public cemetery, was called a 'public churchyard' (*offentlig kirkegård*), which well illustrates the Norwegian situation:

22 When the period is over, the remains go to a collective grave or are buried at an even deeper level. Families can ask for the remains to be buried in a family grave in a second instance.

23 For Dutch professionals, securing a dignified burial entails "respecting the life convictions or religious affiliation of the deceased" (Harmsen: 2007, 13).

24 The state does not provide direct support for church communities, but the Wlb encourages transfer of land to church communities (*kerkgenootschappen*) "under reasonable conditions" (Article 40.3).

25 These are the 'Gravplassloven': *Lov om gravplasser, kremasjon og gravferd*) and the 'kirkeloven': *Lov om Den norske kirke*, respectively. For all Norwegian legal documents, the translations are taken from: http://www.ub.uio.no/ujur/ulov/ [accessed 25 May 2020].

26 I refer in the following to 'paragraph' instead of 'article' because this is line with the laws' own coding.

27 This legal option dates from a time in which rich families had their own cemeteries, though that hardly occurs anymore. In Norway, there are today no private commercial cemeteries as in The Netherlands.

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It makes no distinction between public and church plots, but rather equates the two. 99% of the 2,000 cemeteries in Norway fall into this category. The Norwegian cemetery is public in the sense that everyone has the right – and indeed the obligation – to be buried there, regardless of their religious affiliation or membership. Furthermore, the economic responsibility for the costs of cemeteries lies with the municipalities (Church Act, Para. 15; Funeral Act, Para. 3). Yet, it remains church oriented because the Lutheran parishes legally still own the graveyards (Funeral Act, Para. 1). In addition, the management of the cemetery lies in the hand of a confessional organ: the Joint Parish Council (*kirkelig fellesråd*).[28] Cemeteries had been an administrative municipal responsibility since 1837, which was reconfirmed in the first burial law of 1897[29] but then abandoned in 1996.

In terms of decision-making power, the Joint Parish Council is in control of the churchyards. But, given the mixed composition of this organ, the various parish representatives are always in touch with the municipality. On the national level, the Culture Department issues the rules for the form, size, and depth of the graves as well as all regulations regarding soil quality (Funeral Act, Para. 2). For the construction, destruction, or extension of cemeteries, one needs approval from the municipality as well as permission from the Council of Bishops (Funeral Act, Para. 4).

The second form of cemetery ownership is private and entails those cemeteries constructed by a registered belief community (*Gravplass av registrert trossamfunn*). Of the total of about 2,000 cemeteries, there are only three Jewish cemeteries and about 10 other confessional cemeteries (St. meld. No. 17 2007–2008, p. 105). Only a registered belief community can have its own cemetery (Funeral Act, Para. 1), which excludes unregistered belief communities or nonreligious communities.[30]

28 The Joint Parish Council (*kirkelig fellesråd*) is a religious organ that assumes the economic and administrative tasks on behalf of the different parishes (*sokn/soknets)* in the respective municipality. It plans all church activities in that municipality, furthers cooperation between the different parish councils (*menighetsrådene*), and represents the interest of the parish toward the municipality. It consists of two representatives from each parish (though there can be several parishes in one municipality), one priest (*prest*) or parish priest (*sogneprest*, a representative of the Bishop), and one municipality representative (Church Act Para. 12, Para. 14). In the managerial process, the Joint Parish Council makes use of the church warden (*kirkeverge*), which is basically its administrative and practical arm. Whereas historically the term church warden referred to a person, today this is the institution. A parish council is an elected board of an individual parish which has the responsibility for church education, church music, and diaconal work (*diakonalt*) within the parish. In municipalities with more than one parish, the Joint Parish Council is responsible for cemetery administration and management; in an individual parish, this befalls the parish council.

29 This is the 1897 Law about Churches and Churchyards (*Lov om Kirker og Kirkegårder*).

30 This is further specified in The Act Relating to Religious Communities, etc., 1969 (*Lov om trudomssamfunn og ymist anna ['trossamfunnsloven'])*, Para. 18.

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The Norwegian burial practices ensure the most egalitarian form of burial, financially speaking: All municipal inhabitants as well as those who pass away within its territory have the right to a free grave for the first 20 years (Funeral Act, Para. 6). However, this does not eliminate all economic distinctions. For example, it is possible to lease the rights to a grave for period longer than 20 years – for a small sum. Norwegians are therefore unfamiliar with buying funeral insurance, a common (and needed) practice in The Netherlands.[31]

Crematoria, and a handful of private cemeteries, then form the only exception to an otherwise churchly administered and owned burial domain. Crematoria in turn fall under municipal responsibility and are owned by the municipalities.[32]

In terms of the guiding normative commitments, the Funeral Act provides for individual equality for all because it does not discriminate on the basis of religious affiliation, providing a free grave for all – at least for the first 20 years. Norwegian regulations are by far the most egalitarian of the three countries when it comes to the financial aspects involved in procuring a grave. The legal right for registered belief communities to have their own cemetery attests to a concern with collective equality that, however, is not extended to nonreligious communities like the humanists.

3.1.4 Summary

A look at the legislative frameworks reveals large institutional variety. I summarize the most common forms of institutional governance in Table 3.1.[33]

31 This is not to suggest that burial cannot be costly. I refer here solely to the cost of a grave, not the ceremony. In Norway, families can apply for a one-time sum of financial support (*gravferdsstønad*).

32 Around 40,000 people each year die in Norway, and around 44% of them are subsequently cremated. The percentages in urban and rural areas vary, see https://gravplasskultur.no/wp-content/uploads/2020/05/kremasjonsstatistikk-2019.pdf [accessed 25 May 2020].

33 In all three countries there is some variation between capitals, cities, towns, and small villages.

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Table 3.1 Institutional characteristics of the burial domains

Institutional characteristics burial domain	France	The Netherlands	Norway
Cemetery ownership	Municipal monopoly	Municipal, confessional, or private ownership status	Near confessional monopoly Confessional ownership by Lutheran congregations. Other confessional forms of ownership are allowed, but not for nonreligious communities (humanists).
Cemetery governance	Mayor and municipality	Graveyard owner, if private cemetery; mayor and council, if municipal	The Joint Parish Council (*kirkelig fellesråd)* in collaboration with municipality; at the national level, the Department of Culture and Council of Bishops
Maintenance responsibility	Municipal employees	Municipal employees (*Begraafplaatsbeheerder*), (confessional) volunteers, private companies	Church warden (*Kirkeverge*) or the Graveyards/Burial Agency, City of Oslo (*Gravferdsetaten*)
Financial responsibility	Municipality	Confessional owners, private owners, or municipality	Municipality

3.2 Historical Contextualization of Burial Laws

How did institutional burial formats of these three countries arise? To what extent did a larger state-organized religious dynamic alter the relationship between churches and graveyards? For France and The Netherlands, we need to examine the societal context of the first burial laws, in which cemeteries became municipal responsibility and a strategy was drawn up for reducing conflicts related to religious minorities. For Norway, the defining transitional moments with regard to religious plurality are much more recent. In preparation for the humanist complaints (Section 4.2.3), I want to show how the strong link between church and cemetery developed over time, while basically remaining in place to this day.

3.2.1 France: From Municipalization to Laicification

In France, under the *Ancien Régime* (14th–18th century) cemeteries were church territory. Jewish and Protestant burials posed a problem for the monarchies, because the Catholic Church prohibited the burial of nonmembers on their sacred ground. They also refused to bury certain people, "including suicides, duelists, actors and

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actresses, non-Catholics and excommunicated Catholics" (Kselman: 1988, 319). Even worse, the Catholic Church occasionally ordered exhumations. Burial at the time was characterized by large differentiations according to rank and class. Mass graves were reserved for the poor; burial in the churches was solely for the nobility, aristocracy, and clerics.

The relationship between the church and cemeteries changed significantly in the years between 1750 and the French revolution (1789) (cf. Ligou: 1975, 68ff). Before 1750, the cemetery was the sole domain of the church; it lay at the center of the city, open for all, and was often more a place of leisure. Burial within church premises was frequent. Following the French Revolution (and the rise of Napoleon), without exception cemeteries became municipal matters: Now everyone had the right to be buried there. But cemeteries also became more hidden and were located outside of the city; burial within churches was abolished altogether (Ligou: 1975, 68).

Some of these changes were inspired by concerns with the hygienic conditions of burial in the church. Yet, according to Ligou, we can also observe an increasing civil influence over the cemeteries. Circumstances like epidemic illnesses and 'infection of the air' led to civil interference. Furthermore, the parliament tended to overrule more often church decisions and refuse burial, appealing to what is called 'appeal as from an abuse.'[34]

During the Revolutionary Period (1789–1799), the ideals of social inequality, freedom, and the dissolution of the societal order led to numerous proposals to rearrange burial practices. Yet, there was a set of competing groups with rivalling ideas.[35] Revolutionaries called for the abandonment of all class and religious privileges in the graveyard, saying that, from now on, birth, marriage, and death need to be arranged solely by the State. Catholics, counterrevolutionaries, and some moderate Republicans, on the other hand, emphasized freedom, demanding exemption from the Republican concerns with unity and equality and the ability to arrange cemeteries and funerals to their own standards.

Furthermore, one of the big questions was what should replace the Church, once it had been removed from the burial domain?[36] According to Kselman, the legislators

34 [*l'appel comme d'abus*] This legal procedure (a term originating from the canon law of the Roman Catholic Church) provided the possibility for State and Church to safeguard their respective rights against one another. An abuse could involve an unauthorized act on either side, which would go beyond the limits of each power's jurisdiction. In France, the repeated usage of this legal procedure eventually undermined the power of church courts.

35 Helsdingen (1997) discusses rivalry over different commitments, omitted here for reasons of space.

36 Fouché and revolutionaries like Chaumette sought to de-Christianize the cemeteries (cf. Kselman: 1993, 126 and 166; Van Helsdingen: 1997, 11; Etlin: 1984, 236–238). They suggested removing all religious elements from the cemeteries and putting a sign up at each cemetery entrance stating; "Death is an eternal Sleep." But while their reformist ideas emphasized decency and simplicity, some revolutionary abuses provoked a wave of criticism of their management of the cemeteries.

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held different views on death and the afterlife. Their concern with prudence and social utility led them to create cemeteries that would still allow people to express their hopeful illusions about death. The role of the legislator was to strike at those institutions that encouraged tyranny but not to "triumph over the invincible power of the imagination, to tear from the heart illusions that are sweet consolation and never pernicious" (Kselman:1993, 169, quoting Bontoux: 1796, 3).

Napoleon and his legislators took this to heart in the formulation of the Napoleonic Decree. This very influential piece of legislation, both in France and in large parts of Europe as well, incorporated many of the concerns with public health. It reinforced the prohibition of burial within the cities and within churches. It abandoned the notion of common graves. Cemeteries became the responsibility and property of the respective municipality. Protestant and Jewish cemeteries, however, were *not* included in this decision.[37]

This municipalization was thus not coupled with a 'de-confessionalization.' Article 15 clearly states that every municipality with a plurality of communities should have its own respective burial area. Or, if there is only one cemetery, the mayor should divide up the cemetery into separate sections, demarcated by bushes, each with its own entrance. Furthermore, Article 19 confers to the mayor the responsibility to have the body "carried, presented, deposed, and buried," if the minister of a sect had refused a religious service. As Kselman (1998, 314) notes, Article 19 demonstrates the existing ambiguity between municipal power and ecclesiastical authorities of the time. On the one hand, the clergy could refuse the burial of a deceased person and even refuse a service. In fact, the clergy used Article 15 to argue for burials taking place on a separate part for those it deemed "unfit" to be buried in sacred soil.[38] At the same time, the mayor could claim the power to have somebody interred in consecrated ground.[39]

There was thus an unresolved tension between church and municipal powers, which played itself out in the years following Napoleon's defeat. With the reintroduction of the monarchy under the house of the Bourbons (1815), the Catholic Church regained much lost territory. Unlike in The Netherlands, Article 15 remained in place, leaving cemeteries in the hands of the municipalities, although a strong Catholic influence still remained. Furthermore, previous revolutionary concerns were caught up by existing distinctions in French society. As a central socialist mentioned in 1844:

37 This is why currently some remaining old Protestant cemeteries exist in Bordeaux as well as some Jewish cemeteries in Carpentras, Paris-Montrouge, Marseille, Mulhouse, Lyon, and Strasbourg.

38 The so-called '*coin des réprouvés*.'

39 In reality, Kselman claims, this ambivalence did not lead to great conflict, partially because of a set of ministerial circulars that encouraged the municipal authorities not to challenge clerical authority. The clergy were also urged to take a tolerant attitude (Kselman: 1988, 315).

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> I still see an image of the inequalities of rank and birth governing society. The degrees of fortune are marked by levels: the people in the common grave; the middle class in temporary concessions, and the aristocracy of finance in the perpetual concessions (Esquiros: 1884, 252, quoted in Kselman: 1993, 184).

Debates over the abrogation of Article 15 ensued to resolve this tension between the church and municipal powers. The segregation and occasional exhumation of unbaptized children from consecrated ground played a role in the anticlerical legislation of the Third Republic.[40] In this battle, both Catholics and Republicans "appropriate the language of freedom in making their cases" (Kselman: 1993, 197). Those supporting the neutrality of the cemetery argued that allowing for sections violates freedom of conscience and forces families to publicly declare their religious (non-)affiliation. The Catholic Church interpreted freedom as a collective right: We have a right to bury our members in separate sacred soil.

In the end, Republicans won, and Article 15 was abandoned with the law of 14 November 1881. Further laws completed the 'laicification' of this matter in 1884, 1887, and 1905.

3.2.2 The Netherlands: From Reformed Status Quo to Pluralization

In The Netherlands at the start of the 19th century we observe similarities with French burial developments. Here, too, the concerns with public hygiene led to an increasingly medical approach to death and the involvement of the state to "formulate a secularized version on life and death" (Cappers: 1987, 99). Moreover, from 1795–1813, because of the French occupation, The Netherlands fell under French regulations. Yet, despite these similarities, The Netherlands developed a different institutional format for solving cemetery conflicts.[41]

The Napoleonic Decree became operative in The Netherlands in 1811 but was then abandoned upon Napoleon's defeat in 1813. There was resistance to the prohibition in the Decree of burying in the churches and the requirement for cemeteries to have a minimal distance of 35 to 40 meters from villages. Financial objections were also raised, particularly in Amsterdam: In The Netherlands, 'wet soil' required large sums of money for putting cemeteries outside of the city.

40 Insistence on the Catholic dogma that an unbaptized child is corrupted by sin and, like suicides, must be buried in a separate section fed anticlerical sentiments (cf. Kselman:1993, 193; 1998, 318).

41 A pressing question becomes 'why?' which partially has to do with the successful lobby of a variety of confessional minorities in The Netherlands. It also points to an unresolved theological puzzle about the significance of burial consecration for the different faiths (Catholicism or Calvinist doctrine).

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The Decree was consequently abolished, yet under pressure from medical commissions partially reinstalled in an amended form in 1827.[42] Article 15 of the Napoleonic Decree was replaced in 1827 by a municipal obligation to provide for municipal cemeteries[43], which was then formalized in the first burial law of 1869 and demanded a municipal graveyard in every municipality – or at least a municipal cemetery shared by two or more municipalities (Article 13). Furthermore, the municipal cemetery had to provide for a separate section for their citizens, should the community not have its own graveyard (Article 19). And it should lie outside the village borders (Article 16).

The first burial law with the title 'Act on the Disposal of the Dead, Cemeteries and Funeral Rights'[44] was the outcome of lobbying among several parties: the government, municipalities, religious communities, and medical scientists/doctors. Dutch medical scientists investigated and concluded that burial in close proximity to residential areas was damaging to public health. They convinced the government that burial should thus take place outside of the urban areas and away from churches.[45]

Resistance on the part of the municipalities was strong against the municipal obligation to provide for a municipal graveyard outside cities. Municipal budgets at the time were small, and the cost of constructing graveyards was high. They argued that there were already many Dutch Reformed (*Nederlands Hervormd*) cemeteries where everybody could be buried. Furthermore, there were ample special cemeteries available.

The government nevertheless insisted. The legislature above all wanted to assure that no corpse remained unburied, and that, on the part of the government, there was always an option everywhere for burial, "a confessional churchyard could, for whatever reason, refuse to accept the corpse" (Hoog: 1870, xii).[46]

Yet the government provided for some exceptions, emphasizing that, if there were several existing confessional graveyards in a municipality and if the need for

42 In Amsterdam, burial within the churches continued until 1865 (cf. Cappers: 1987, 105)!

43 The municipal monopoly prescribed by the Napoleonic Decree was never enforced in The Netherlands. One reason must have been the short time period. Second, there was resistance toward the Decree mostly with regard to the prohibition of burial in the churches. See Hoog: 1870, xii and xxvii.

44 *Wet tot vaststelling van bepalingen betrekkelijk het begraven van lijken, de begraafplaatsen en de begrafenisregten*.

45 Earlier attempts at prohibiting burial in the churches had been rejected in 1795 and 1808 for mostly financial reasons. Likewise, proposals were made by medical scientists emphasizing a "concern for fresh air" (Cappers: 1987, 102). A prohibition of burial in the churches was articulated but not taken seriously at the time of the Kingdom of Holland in 1808. As early as 1667 the City Council of Amsterdam had tried to encourage its citizens to be buried in the graveyard instead of in the church, by promising them a tax cut (Lievaart: 1982, 53).

46 This a legal commentary by a central administrator, my translation.

municipal space was small, the municipality would have to provide just a small area. Or it could use the option to request a municipal area within a confessional cemetery.[47] This way "its costs could not be large" (Hoog: 1870, xxviii).

Catholics and Jews[48] actively sought to construct (and maintain) their own cemeteries, probably for theological reasons and as minority faiths to oppose the reigning Dutch Reformed Church. In addition, they secured the right to use part of a municipal cemetery if they could not afford the former.

In hindsight, this looks like a natural outcome of the burial developments; confessional sections had already been allowed under the Napoleonic Decree. But in France these rights had been stripped from church communities in 1881. So, the question becomes rather why this did *not* happen in The Netherlands.

A prominent liberal politician, J.R. Thorbecke (1798–1872), had in fact proposed abolishing the legal basis for confessional graveyards. This influential man, who engineered the constitution of 1848 and was Minister of Internal Affairs, drew up a new burial law in 1852 that prioritized public health and order over confessional considerations. It allowed church communities to maintain already existing cemeteries while abandoning future confessional cemeteries.

In the course of the 1860s, Thorbecke's proposal failed when the power of the confessionals increased. Orthodox Reformed and Catholic political movements developed during this period in response to the educational reforms that liberals had pushed through parliament (Monsma/Soper 1997: 56). The position of the enlightened liberals and their increasing anticlericalism had strengthened during the 19th century through their school reform policies and their dominance in parliament. Yet, the Dutch religious communities objected to earlier drafts of the law, which did not sufficiently take their religious sensitivities and understandings into consideration. Parliament determined that, although some of these 'understandings' could be regarded as prejudices, "particularly in a country like ours, where taking them [the understandings] into consideration is a duty, as long as they do not violate concerns of general interest" (Hoog: 1870, xx, xxi). Religious interests were thus given equal consideration to those of health and public order (cf. Cappers: 1987, 106).

This rise in the importance of confessional interests can be seen as a prelude to the wider societal emancipation of Catholics and other minorities to follow at the onset of the 1900s (Cappers: 2012, 276). The result is a solid set of religious rights in this first burial law, which has carried much of its historical baggage to the present day.

47 This option still exists but is not prescribed by contemporary law.

48 A Jewish community had been present since the 16th century and had bought their first cemetery in 1602. Judaism requires permanent grave rest and burial outside of cities (Lievaart: 1982). Many Catholic cemeteries still exist in the southern part of The Netherlands.

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3.2.3 Norway: From Municipal Administration to Churchly Administration

In Norway, we observe a very different burial history. The previous contexts revealed that the changing relationship between the church and cemeteries was propelled by medical developments, which increasingly turned death into a matter of state regulation. In many areas of Europe, "Public health was concomitant with progress and civilization" (La Berge: 1992, 12). Yet, for Norway, we find little material concerning matters of burial hygiene and public health. Fæhn (1994, 282) mentions the 1805 prohibition of burial in churches because of bad odours in the summer.[49] Yet, other hygiene concerns remain unexplored. Nor was it easy to find institutional studies that address the broader political context of the first burial law.[50] Instead, the question of cemeteries is treated historically as an aspect of church governance. Only since 1996 does Norway have a specific Funeral Act.

I therefore took an indirect approach: For the historical analysis, I looked at the function of the church warden and changes to the identity of this person (and later institution). Indirectly, this provides insight into the historically interwoven, yet changing, relationship between graveyards and local communities, church and (later) municipalities.[51] Furthermore, I looked at the more recent 2012 changes to the 1996 Funeral Act. The further discussion in this Section 3.2.3 draws on Breemer (2014, 183–185).

Ever since Norway 's conversion to Christianity (around 1000 AD), the church has been involved in burials and the maintenance of graveyards, albeit in different roles

49 There are some references to the need for inquiring the "helseraaet" Para. 33 in the construction of a new churchyard (1896 Church and Graveyard Act). The second part of Para. 34 mentions the need for churchyards outside "kjøbstæder." Otherwise every parish "shall have a churchyard next to or in close proximity to the church" (Para. 34). Given that churches were often positioned at the center of villages, this would imply burial in the vicinity of the population. Maybe debates over hygiene were less prevalent because Norway urbanized so much later, making the challenge of burial in densely populated areas less acute. Or perhaps enlightenment ideology did not resonate as strongly it did in The Netherlands and France. Arguments for health reasons were deliberately used to counter confessional power.

50 A handful of available studies/projects focuses on the ritual aspects of death (e.g., Aagedal: 1994; Neegard: 1993; Hansen: 1977). Alternatively, there was a focus on ideas of death internal to confessional groups (e.g., Aukrust: 1985). For a broad study of the Early Protestant Tradition, see Rasmussen: 2017. Fæhn discusses the period from the Reformation to now, though in the sections on burial (Fæhn: 1994, 146–153; 278–282; 398–403), this again refers only to rituals, liturgy, and consecration through *jordpåkastelse*. Only one section shortly addresses the issue of religious plurality. In 1604, Church ritual demanded that foreign faiths (i.e., other Christians) be buried in the churchyard, even executed persons, suicides, and banned people! However, *duellanter* (i.e., those who died in a duel) should *not* be buried in the churchyard (Fæhn: 1994, 153).

51 I rely on the excellent study by Alsvik: 1995.

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and to different degrees. Typically, the local community took care of the church building and graveyard, and the burial process was left to the family and the local community (Lappegård: 1994, 90).[52] This means only a small role for the minister, who did the final consecration (sometimes 6 months after the burial).

The 'Act Relating to Churches and Churchyards'[53] of 1896/1897 marked the first legal formalization of these roles. As the name indicates, the regulation of churchyards was part of the attempt to regulate the financial and administrative concerns with regard to churches, their buildings, and employees.[54] Unlike the Dutch context, where a wide range of parties (and their respective concerns) were involved in this first burial law, Norwegian churchyards were treated as an integral part of the Church law (1896).

This Act of 1896 gave the Lutheran parishes ownership of the churchyard, although their financial management formally became a municipal responsibility. Maintenance responsibilities for the cemeteries changed over time but were primarily left in the hands of a 'confessional' body, although these bodies were in fact always mixed in nature and interwoven with the local community, at least up until 1837, and thereafter with the municipal administration.[55] For reasons of space we cannot go deeper into this matter. Central to our discussion here are the administration of cemeteries and employer responsibility. In one reading of history, this has been a municipal responsibility since 1896 (cf. NOU 2006: 2, 133). Yet, in fact, as history shows, reality was more complex.

The position of church warden dates back to the second half of the 12th century. As a man of status in the local farming community, he was charged with securing income for the church and for maintaining the church building and graveyard. The institution was firmly rooted in the local community as well as being part of the international institution of the Catholic Church (Alsvik: 1995, 31).

With the Reformation (1536–1537), church governance became integrated into state governance (cf. Thorkildsen: 2012, 1). The then Danish-Norwegian king confiscated all church property and used this wealth to create an integrated State.

The introduction of absolutism in 1660 increased the material and spiritual power of the state. Materially, the king subjected the church warden to the control of the minister, who inspected the financial accounts every third year and forced the church warden to hand over any accumulated savings (*tvanglån*) (Alsvik: 1995, 40). However, the state also increased its spiritual and moral influence over the local community. Now the church warden was given a moral supervisory function

52 This included functions such as the bellringer, the church warden, and the sexton.

53 This is the LOV-1897-08-03 no. 1: Lov om Kirker og Kirkegaarde.

54 Of the six chapters in the law, only the fourth is dedicated to churchyards.

55 For example, the Act of 1897 introduced a church supervisory body (*kirkens tilsyn*) to appoint church wardens. It included representatives of the parish, the municipality, and council (*formannskap*).

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and, as a state representative, became part of the state's moral objectives (Alsvik: 1995, 53). Basically speaking, at this point Church and State were still the same.

From 1680 onwards, the pressure for income increased, because the Danish king kept losing wars. The locals were then pressed for more money, and the king began selling the churches to private individuals.

During the 1800s, the churches were gradually returned to the public. The creation of municipalities in the Alderman Act of 1837 put organizational structures in place to enable buying the churches back (cf. Hovland: 1987). This law made the church warden a municipal employee who, in large cities like Oslo and Bergen held a full-time position. Yet, despite the process of municipalization, in most other smaller cities and towns, the position remained voluntary, part-time, and closely connected to the church.

The Act of 1896 reflected this situation by transferring the financial responsibility for a variety of church functions to the municipalities. Yet, it also reflected some ambiguity by mentioning (in Section 45) that the municipalities *or* the Parish Council may appoint the church warden.

In the period from 1900 until 1950, the function of church warden continued to be situated at a borderline between different administrative identities. The Church of Norway Act of 1953[56] did not change this much: It allowed the Parish Council to appoint a church warden, inasmuch as this involved an unpaid position; if it involved a paid position, the municipality was responsible.

Throughout the 1950s and 1960s, many municipalities were merged into one. The need arose for a church warden to attend to the tasks of the different parishes and, often, to lead the Joint Parish Council (if it already existed). Furthermore, the position became important enough to be transformed from an unpaid, voluntary church function to a full-time, paid position. Paradoxically, these municipal processes led to *more* religious involvement, as the church warden became an important link between the Parish Council and the municipality. However, because his formal position was that of a municipal servant, the church warden continued to be Janus-faced. In the early 1980s, in the report submitted by the Sivertsen Committee, this confusion gave rise to the question: Should this remain so?

> […] the municipalities should have full responsibility for building and maintaining appropriate graveyards in the municipality. This ought to be a municipal responsibility, and it is important that each local community has the responsibility for ensuring that their dead are given a dignified burial. Since the graveyards are for everyone, regardless of religion or worldview, it is in principle proper that the municipalities and not the church

56 This is the *Lov om Den norske kirkes ordening*, 1953, my translation.

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> communities bear the responsibility for building and maintaining the graveyards (passage from NOU 1975: 30 quoted in St. Meld. No. 2007: 17, p. 106).[57]

In 1982, the Norwegian parliament appointed a Church Act Committee (*Kirkelovutvalget*) to prepare a recommendation. The majority advice of the committee was that the administration and maintenance of the graveyards should be a municipal responsibility, but that the church should maintain a supervisory role. A minority suggested that the Church should take care of both the administration and the supervision.

Thus, both subscribed to maintaining the link between graveyard and church, though they differed on what this entailed. The minority argued that the cultural and religious distinctiveness of the graveyards should also be expressed in their practical administration.[58] The majority, however, considered graveyards a nonchurch administrative domain.[59] Ultimately, in the Funeral Act in 1996, the department decided in favour of leaving the administrative responsibility to the church.

The latest formative phase concerns a broadly shared political commitment to "take religious and secular minorities' needs in regards burial better into consideration" (Innst. 393 L 2010–2011, p. 2). This results in the reformulation of the Burial Law of 2012. The former 1996 Funeral Act, Para. 2, well revealed the mixture of public and church-oriented function: "Churchyards shall as a rule be constructed in each parish and in close proximity to a church." Norwegian public cemeteries thus explicitly emphasized their cultural and confessional heritage. The most recent legal amendments removed this part, also replacing everywhere the term *kirkegård* with the term *gravplass*.[60] Importantly, the updated law opens with the words: "Burial shall occur with respect toward the deceased's religion or belief" (Para. 1).[61]

These legal changes reveal the concern with the changing character of Norwegian society and the need for more inclusive public institutions. However, the law was not changed regarding the large principal question of who is administratively responsible for (or physically owns) the graveyards.

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57 There is no precise page number given from NOU 1975: 30, my translation.

58 This was argued by the member Skurtveit, see NOU 1989: 7, p. 230.

59 This advice was presented to a wide range of institutions and individuals to be voted on. A thin majority (55%) of the parish councils voted for church administration, versus 39% for municipal responsibility. The response rate of the municipalities, however, was too low to draw any clear conclusion (cf. Raustøl: 1993).

60 Also, the term consecration (*vigsling*) was replaced by ceremony (*seremoni*).

61 The revised Para. 6 mentions that minorities are entitled to financial help by the Joint Parish Council in case extra costs arise to bury someone in a special grave, for example, when the home municipality does not have Islamic graves available. In Para. 23 a requirement was added for an annual meeting in each municipality with all religious and secular communities.

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3.2.4 Summary

In conclusion, state-organized religion relations played a major role in the formation of these first burial laws parallel to concerns for hygiene and public health. French burial regulations arose in a sequence of historical moments, motivated by anticlerical sentiments and political attempts to reduce the power of the Catholic Church over the cemeteries. Dutch burial regulations were shaped by the context of manifold religious minorities who wished to maintain, or safeguard, their cemeteries against a Dutch Reformed status quo. Dutch religious communities were able to significantly influence the process leading to the formation of the first burial law (1869). In Norway, the burial and church laws were shaped by the context of a Lutheran monopoly and relatively homogeneous population. Until recently, Norway's burial law revealed few signs of religious diversity. Norwegian cemeteries remain largely church territory.

3.3 A Wider Understanding of State-Organized Religion Relations

In what follows I provide the reader with one last layer of historical contextualization by looking at the wider dynamic between organized religion and the state. This allows for an even broader understanding of these countries' historical formative moments, in order to assess not only legal but also national policy as well as people's everyday responses in the chapters to come.

Contemporary discussions of suitable burial solutions might draw on state-organized religion schemes that perhaps were not visible in the legal debate of the first burial laws but which today nevertheless affect professional decision-making about burial policy. Furthermore, as a continuation of Section 2.4.3, such a broad state-organized religion discussion allows me to substantiate the choice of the schemas for the heterogeneous state-church model as formulated in Section 1.2.[62]

Let us shortly recall: I conceptualize French state-organized religion relations as a combination of Gallican, associational, and strictly secular schemes (cf. Bowen: 2007, 2012). The Netherlands use a combination of principled pluralism (cf. Monsma/Soper: 1997) and a separation tradition (cf. Maussen: 2009, 2012). For Norway, I propose a conceptualization as entailing establishment (i.e., remaining Lutheran hegemony), compensatory evenhandedness (i.e., compensating toward other mi-

62 For my discussion of France, I rely on Bowen: 2006, 2007, 2010, 2012; Maussen: 2009; Baubérot: 2000, 2004; Fetzer/Soper: 2005, 2007. For The Netherlands: Monsma/Soper: 1997; Maussen: 2009, 2012; Van Rooden: 1996, 2010; Van Bijsterveld: 1987, 2006. For Norway: Thorkildsen: 1998, 2012; Furre: 1991; Molland: 1979; Elstad/Halse: 2002; Leirvik: 2007.

norities) and that of (municipal) dis-establishment schemes (cf. Breemer: 2014, 2019).

3.3.1 France: Gallican, Associational, and Strict Neutrality Schemes

The French relationship between organized religion and the State is typically described by referring to *laïcité*, often portrayed as a teleological process.[63] After the French revolution robbed the Catholic Church of its power, the principles of the Republic were laid down. Struggles during the Third Republic removed the church from the schools. The Law of 1905 allowed the idea of *laïcité* to come to fruition, and separation of state and church was given a legal form.[64]

According to Bowen, such a historical and normative account of secularity disguises a more complicated and long-term policy that is better understood as a combination of scripts. The 'Gallican scheme' focuses on the role of the State as the protector as well as the controller of religious institutions. Bowen traces its origins to Phillipe le Bel (1268–1314), who wanted to maintain an independent French or Gallican church *vis-à-vis* Rome. He sees its continuation in Napoleon's Concordat and in certain versions of Republican philosophy.[65]

The 'associational scheme' is a variation of Republican thought[66] that crucially entails focusing on citizen associations and civil society. State-centered French Republicanism is suspicious of intermediate corporate bodies, as they obstruct the direct relationship between the State and the individual. Yet, the associational line of thinking sees associations, for example, religious associations as well as private religious schools, as the best vehicles for that role.

Maussen (2009) adds a "strict neutrality script"[67] that involves a solely secularist interpretation of principles like neutrality, equality, separation, and the conviction that religion belongs in the private domain.

In a short historical reconstruction, I show how these strands of reasoning can capture an equivocal French approach to organized religion and state.[68]

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63 I rely on Bowen (2007, 1006) with reference to leading historians on the subject, like Baubérot.

64 Yet, the word does not have a legal definition. It appears first only as an adjective in the Constitution of 1946, Article 1: "*La France est une République indivisible, laïque, démocratique et sociale*" ("France is an indivisible, secular, democratic and social republic," my translation).

65 Any definition of Republicanism is as contested as that of *laïcité*. Its central idea is that living together in a society requires an agreement on basic values, and the state must ensure that all citizens and all newcomers learn those values, see Bowen: 2012, 359. Civil liberties are secured *through* state power and a public space that is neutral with respect to religion (cf. Bowen: 2006,14).

66 This also has roots in the philosophy of Rousseau, who advocated free association among citizens.

67 I distinguish this strand in agreement with Maussen (2009, 44), yet as distinct from *laïcité*. In my approach *laïcité* can mean many things, sometimes overlapping with a 'strict neutrality script.'

68 My approach is here heavily indebted to Maussen (2009, 43).

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We can trace the struggle between French monarchs and the Catholic Church – which eventually led to the formation of a Gallican church – as far back as Phillipe le Bel (1268–1314). The King inaugurated the tradition of controlling this church from the palace, where in France rulings of the Pope required royal consent (Maussen: 2009, 44ff). There was also an array of other early formative moments: the religious wars (1562–1598) and the failure of a successful Reformation in France; the edict of Nantes (1598), which allowed for the practice of Protestantism; and its revocation in 1685.

The Gallican approach dominated French politics until the late 19th century (Bowen: 2006, 22). Tolerance in this respect was a matter of royal regulation of a recognized religion. It did not (yet) means recognizing freedom of conscience. As Maussen (2009, 44) remarks, in the period leading up to the Revolution of 1789, France had no experience with the peaceful accommodation of religious pluralism. A suppressive Catholic Church and the reign of Louis XIV led to new violence against Protestants and the edict of Fontainebleau (1658).

During the Revolution (1789–), the Catholic Church was 'unestablished,' robbed of its properties, and thousands of Catholic priests were murdered or deported (cf. Baubérot 2000: 11–17).

Baubérot distinguishes two modes of thinking about religion that subsequently developed: the wish to maintain a national public religion and the withdrawal of the State from all things religious.[69]

Initially, the Constituent Assembly wanted to install the Catholic Church as the national religion, as part of the public order. Yet, the civil constitution of the clergy from 1790 required Catholics to take an oath to uphold the constitution. Those refusing were persecuted, and a wave of terror followed, answered with a wave of counterterror. Revolutionaries institutionalized a 'religion of the Republic' with a festival for "the Goddes of Reason."[70]

The second mode of thinking that eventually dominated was the commitment to individual freedom of conscience, embodied in the 1789 Declaration of the Rights of Man and of the Citizen. After Robespierre's fall in 1795, the government abstained from supporting any religion. The State no longer paid the salaries of the clergy. Liberty of conscience was guaranteed to all, yet the State forbade exterior clothing or rituals of any religion, including funeral processions and bell-ringing (Bowen: 2006, 22).

The Revolution thus resulted in changes in the State-Church relationship by focusing on individual freedom of conscience, by seeing the outward expression of religion as a potential threat to political stability, and by forwarding a generally

69 I rely here on Baubérot: 2000; Bowen: 2006, 22.

70 For a discussion, see Baubérot: 2000, 15–17; Fetzer/Soper: 2005, 69.

Republican philosophy that urges its citizens to abstain from all communal loyalties other than those to the French nation (cf. Maussen: 2009, 44).

This strict separationist attitude was again abolished in 1801 when Bonaparte signed a Concordat with the Pope. Catholicism then became the religion of the French people, albeit not as an established religion. Bowen sees this arrangement as an extension of the Gallican scheme, in that the state recognized and financed four religions (Catholic, Lutheran, Calvinist, and later the Jewish faith). It paid all clergies' salaries, but it also demanded their explicit subordination.[71]

The Napoleonic regulations retained the tension between supporters of the Catholic Church and monarchy and anticlerical Republic factions. This is reflected in the shifts between monarchical and Republican regimes following Napoleon's later defeat.[72]

The conflict between 'the two Frances' culminated at the beginning of the Third Republic (1871–1940) over schools. Once anticlericals had gained parliamentary power, they passed the "Ferry Law" (1882),[73] which stripped the clergy of their right to inspect schools or to fire teachers who displeased them (Fetzer/Soper: 2005, 70).

A range of laws between 1882 and 1886 then further secularized the classroom, allowing only laypersons to teach and adopting a secular curriculum aimed to form "peasants into Frenchmen" (Bowen: 2006, 24f). This phase was very formative for the contemporary imagery of French state-church relations: Laïcité became an object of struggle and an actual word. Militant secularism (*laïcité du combat*) pits itself against those favouring a return to the era of Catholic morality. A previous willingness to tolerate religious morality hardened into an even firmer anticlericalism that was further ignited by the Dreyfus Affair (1898–1899).[74]

In the 'hot years'[75] between this affair and the laws of 1907/1908 regarding church property, the battle between proclerical and anticlerical factions culminated in two phases of public policy and law-making. Changing power constellations shifted the strongly antichurch current in the years 1901–1905 over to a more liberal associational approach in the years 1905–1908.

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71 In 1908, this involved the creation of a Jewish consistory: Jewish practices and institutions were aggregated into a legal corporation, rather than being recognized as the rights of a community striving for self-determination. Jews were given rights as individual citizens but not as a community.

72 From the July Monarchy (1830–1848) France transitions to the Second Republic (1848–1851) to the second Empire (1851–1871) to the Third Republic (1871–1940).

73 Jules Ferry, Minister of Education, enacted this.

74 This involved the false accusation of high treason toward a Jewish artillery Captain. The affair deeply divided France between the anti-Dreyfusards, comprised of the Catholic Church, the military, and the right wing, who clung to the original verdict and exploited anti-Semitism. The Dreyfusards were an alliance of moderate Republicans, radicals, and socialists who claimed his innocence.

75 Bowen relies on Baubérot: 2004 for this account.

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This last phase led Bowen to highlight an associational scheme[76] that results in the right to create a legal association in 1901 (i.e., cultural associations with a religious flavor) (*association culturelle*) and the legal right to create an explicit religious association (*association cultuelle*) as stipulated in the 1905 law.

The 1901 law allowed citizen to establish voluntary associations, but the law also aimed to weaken Catholic institutions, as congregations now needed authorization from parliament. The anticlerical Emile Combes used it in 1903 to close down 10,000 Catholic schools on the grounds that they had been created by religious orders. A 1904 law forbade religious teachers.

The 1905 Law of Separation of Churches and State was more liberal. It traded in the Concordatarian system of officially recognized public religion for a privatized notion of *le culte*.[77] Its first article "guarantees the freedom of conscience and the free exercise of organized religions …" Article 2 stipulated that "the Republic shall not recognize, pay, or subsidize, any organized religion."

However, the State of Council *does* recognize religion as such.[78] Second, the Republic *does pay* the costs of chaplaincies in schools, hospices, asylums, and prisons (1905 law, Article 2.) And a range of indirect subsidies were created for building prayer houses (Breemer/Maussen: 2012, 288),[79] which by 1950 also included subsidies for religious private schools, on the condition that they teach the national curricula (Bowen: 2012, 360).

To the present day, the 1905 law has remained the primary legal framework. Yet, discussions endure as to how to interpret its contradictory strands: Defenders of a more 'millitant' (*laïcité du combat*), 'strict,' or 'closed' laïcité read the law as proof of strict separation and nonsupport; proponents of a more 'moderate' (*laïcité modérée*), 'open,' 'plural,' or 'soft' laïcité emphasized the law's defense of effective religious freedom, the right to establish autonomous private religious associations and other forms of state support (cf. Fetzer/Soper: 2005, 73; Maussen: 2009, 46).

76 Bowen (2006) and Rosanvallon (2004) see this as an internal Republicanism struggle, pitting a centralizing Jacobinian political philosophy toward one emphasizing the importance of associations and civil society.

77 *Le culte*, organized religion, has no legal definition but refers to the protection and freedom of a religious organization regarding the mass, its buildings, and its teaching (cf. Bowen: 2006, 18).

78 This confers legal recognition on the condition that the group comes together in formal ceremonies, that the beliefs contain universal religious principles, that the group has had a long existence and does not threaten public order (Bowen: 2006, 18).

79 Moreover, the state or municipality assumes the costs for Catholic churches built before 1905.

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3.3.2 The Netherlands: Principled Pluralism and Separation Tradition

The Dutch approach to organized religion and state is often characterized by the idea of 'pillarization,' which refers to a period in Dutch history (1900–1960) in which society was structured by confessional and socialist divisions (Reformed, Catholic, Socialist, Liberal) and entailed a type of governance that combined group autonomy with elite cooperation and compromise (Lijphart: 1975). In both the Dutch public and scholarly debate of the last decade, pillarization has increasingly come to be used as a trope by those critical of Dutch immigration policies.[80]

By evoking this mythical understanding of Dutch integration and state-church regimes (and its transition into "the multicultural model"), scholars or politicians can lend support for their plans for alternate models or policies. In response, other scholars show how the label of pillarization and its transition into multiculturalism distorts an understanding of actual transitions in integration policies and Dutch state-church relations.[81]

Dutch state-church relations are best conceptualized as a combination of 'principled pluralism' and a separationist tradition. The former is a term coined by Monsma/Soper (1997) and entails a pluralistic view of society, which deems a variety of religious and philosophical movements normal and no threat to the unity and prosperity of society. These can develop freely on separate tracks, "neither hindered nor helped by government" (1997, 60). Further, the state supports religious freedom – whether positive, negative, individual, or collective – guided by an idea of a principled evenhandedness between religion and nonreligion. Nonreligious organizations are yet another orientation (*richting*).

Lastly, there is a strong separation tradition: Liberals have historically stressed the need for a neutral public sphere, secular institutions, and policies of noninterference vis-à-vis organized religion (Maussen: 2009; 2012). Below, I present these schemes in their historical context.

The Republic of the Seven United Netherlands was formed in 1581. During the Dutch Revolt or the so-called Eighty Years' War (1568–1648), leading up to this Republic, the political battle against the authority of the Habsburgs joined the beginnings of the Reformation. The reform movements (under the lead of William

80 Pillarization and its outflow into multicultural politics led to perverse effects, so it is argued. It allowed for 'parallel societies,' 'ethnic enclaves,' and the oppression of women. See Klausen: 2005, 145; Koopmans/Statham/Giugni/Passy: 2005, 434–435; Sniderman/Hagendoorn: 2007, 17–18, all quoted by Maussen (2012, 338). Vink (2007, 344) looks at historical changes in integration policies since the 1970s, showing that "there never was a pillarized Dutch integration policy to begin with."

81 Vink: 2007; Rath/Penninx/Groenendijk/Meijer: 1999; Maussen: 2009, 2012; Dyvendak/Scholten: 2010.

van Oranje) were directed against the rule of Spain and the Catholic Church. The battle for a Dutch Republic was thus at the same time a Calvinist fight for religious freedom.[82]

The Union of Utrecht in 1579 created the transition to a confessional state. Article 13 laid down the principle of individual freedom of conscience, meaning the freedom to have a religious opinion. This meant primarily a ban on the Inquisition, though it did not yet mean that one could publicly exercise one's religion or publicly express dissent (Van Bijsterveld: 1987, 27). Public office still required membership in the Reformed Church, and dissenting religious groups were looked upon with lesser regard.

Yet, unlike Norway at the time, the Reformed Church was not a state church, but was rather highly decentralized, with power residing in the hands of local elites and influential families. Second, it had an antiabsolutistic character. Because the Reformed Church had arisen out of the Dutch revolt against the Spanish Inquisition, the new republic refused forced membership (Rooden: 1996, 20). The influx of leading thinkers like Descartes, Locke, Spinoza, and Bayle, who had fled religious wars elsewhere, further strengthened the commitment to religious toleration.

With the Batavian revolution (1795–1798), which marked the end of the Dutch Republic[83], the Reformed Church was robbed of some of its privileges. Membership in another confessional community no longer carried public advantages or disadvantages with it. And confessional affiliations other than the Reformed Church were seen as something positive (cf. Van Bijsterveld: 1987, 28). Furthermore, in the short French period (1795–1814), the invasion of the French revolutionary armies lay the legal basis for a further separation of state and church. Religious freedom and equality for all churches was declared in 1796 and confirmed in 1815 (Sengers: 2010, 79), putting a strong bureaucracy in place.

The constitution of 1814 is the outcome of tensions between modernists, who wished to minimize the relationship between state and church, and traditionalists, who longed to return to the reign of the Reformed Church. By way of compromise, it still proclaimed that the king should be of the Reformed confession. Yet, in 1815 this is abandoned. After the merger with the predominantly Roman Catholic Belgium, the provision was exchanged for a promise from the Belgian authorities to secure explicit supervision over the Catholic Church (Van Bijsterveld: 1987, 29f).

This satisfied William I's (1815–1840) need for interventionist control over the churches. The constitution[84] installed in 1806 had allowed the government to regulate the organization and practice of all cults. Likewise, William I demanded that

82 My discussion is heavily indebted to Van Rooden (1996 and 2010).

83 This marks the beginning of the Batavian Republic, which lasted until 1806.

84 There were six constitutions between 1795–1816.

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all church bodies obtain his approval for their internal regulations (*bestuursreglement*).[85]

This was when the state and the church became decoupled. The basic principles of the Dutch pluralistic and liberal state were now in place and would remain so until today (Sengers: 2010, 79). Nevertheless, the government still intervened in church matters.

The constitution of 1848 changed everything. The legal scholar Thorbecke installed a – at its time liberal – constitution abolishing the need for state approval for the construction of church bodies. Here, we recognize our marked third strand of a 'separation tradition.' As further confirmed in the 1853 law on ecclesiastical communities, these communities could decide themselves on the internal regulation and practice of their faiths (Hirsch Ballin: 1987, 12). This allowed Catholics to reestablish the structure of their church. Yet, this liberal loosening of control did not imply abandoning the Protestant nation; anti-Catholic sentiments were still prominent.

In the second half of the 19th century, the power of liberals in the Dutch government increased. Inspired by ideas popular in large parts of the Western world ('enlightenment'), Dutch Liberals worked for a society that was marked by a consensus of values, that was nonsectarian (Monsma/Soper: 1997, 55). Schools were seen as important, and, as in France, the idea became salient that the state should provide for common public schools, unguided by one particular denomination (Glenn: 1987, 46–47).

Opposition to these liberal ideas came from both the Roman Catholics and orthodox Protestants. Conflict ignited when, in 1878, four years before the 1882 French Ferry law, the liberal Kappeyne van de Coppello pushed through a new law demanding higher standards for all schools, that is, reform for all schools, both public and confessional. But it provided funding only for the public schools: The confessional schools should finance themselves. Furthermore, they risked being closed down if they did not meet the higher educational standards.[86]

Despite their historical animosity, Catholics and Protestants alike formed a strong political alliance against the Liberals.[87] Over a period of 40 years, this Protestant ARP-Catholic alliance became a major political force, installing its own vision of education. Religiously based schools and public schools espousing a "neutral

85 He also used the 1806 law to restructure all Protestant groups in the North to become nation-building organizations (Van Rooden: 2010, 67). His attempt to do the same with the Catholic Church ultimately led to Belgian separation in 1830.

86 This law ensured parents the freedom to establish their own schools.

87 Abraham Kuyper, an influential minister and mass politician, created the Orthodox Reformed Church (*Gereformeerde Kerken,* 1892), which was a split off from the Public Reformed Church (*Hervormde kerk*). And he created the ARP, the Antirevolutionary Party.

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consensual philosophy" should all share "fully and equally in public funding" (Monsma/Soper: 1997, 57). This vision was ultimately set down in the Constitution of 1917, Article 23, which is still in force today.

This is where Monsma and Soper's idea of 'principled pluralism' comes from. It entails the thought that both religious as well as nonreligious views have the same right to sit at the public policy table; liberal views are no more neutral than religious ones. And it builds on an idea of sphere sovereignty: "the right of different religious and nonreligious perspectives to develop freely on separate tracks, neither hindered or helped by government" (Monsma/Soper: 1997, 60).[88] The social imaginary evolves from a nation consisting of subjects to be transformed and educated to one of individuals belonging to groups. Allegiance to the nation could be expressed only through membership in these groups (cf. Van Rooden: 2010, 70).

Beginning in the early 1900s, this eventually led to a society in which the basic spheres of life are structured along 'pillars' – there are, for instance, Catholic radio stations, bakeries, sports clubs, political parties, etc. The combination of group-based autonomy and an elite-level consultation and decision-making structure is what held this system together peacefully (Lijphart: 1975). The pacification and constitution of 1917 is the legal embodiment hereof. It secured universal male suffrage, an electoral system of proportional representation, and the equal funding of schools.

This pillar system, however, eroded from the 1960s on. The expansion of the Dutch welfare state made its citizens less dependent on religious organizations. The increasing economic prosperity in the 1950s and 1960s allowed for more educational opportunities and higher wages. Internal changes to the Catholic pillar – the group that had needed the protective structures most – led to its dissolution (Bryant: 1981, 63). Furthermore, the cultural revolution of the 1960s challenged the system with its emphasis on sexuality, consumption, and freedom of choice. As Maussen (2009) remarks, one of the effects of depillarization was an increased emphasis on individual freedoms and protection against intrusive religious authorities. In

88 As they trace it, intellectuals like the Orthodox Protestant Abraham Kuyper, the Orthodox Protestant Guillaume Groen van Prinsterer, as well as the Catholic Herman Schæpman were indebted to these pluralist ideals. It was their simultaneous challenge and common alliance (later joined by the socialists) that led to the eventual development of a pillarized society. Possibly because they all occupied a minority position vis-à-vis the liberal and *Hervormd* Protestant nation, none sought to impose their ideas on the nation as a whole (cf. Monsma/Soper: 1997, 59). Furthermore, deep anti-Catholicism had provided strong incentives for Catholic mobilization. The split among Protestants secured the majority of the combined Orthodox Reformed and Catholics (cf. Van Rooden: 2010, 70).

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this light, the existing financial relationship between the Dutch state and churches increasingly became seen as inappropriate.[89]

The Constitution of 1983 provides the basis for contemporary Dutch state-church relations. There is no mention of the principle of separation of state and church, in any law. Yet, it has long been an important value and premise that finds its expression through a set of articles in the Constitution, Articles 1, 6, and 23. Van Bijsterveld (2006, 248) summarizes it as the mutual freedom of churches and state to give form to their organizational structures and confessional orientation (*vrijheid van inrichting en richting*). The state does not intervene in the appointment of religious officials. Conversely, the churches should not proclaim a formal position in public decision-making procedures. And no merely confessional criteria can be used to direct the actions of government.

3.3.3 Norway: Establishment, Compensatory Evenhandedness, and Municipal Disestablishment

In international literature, Norway is typically categorized as falling into the category of an "established church" (Ferrari: 2002; Kuru: 2009); or "establishment secularism" (Stepan: 2011). Since May 2012, the constitutional relationship has been loosened, though the Norwegian Church still enjoys a special foundation in the Constitution: Article 2 no longer mentions the Evangelical-Lutheran Religion as the official state religion but does emphasize a "Christian and humanist heritage."[90] Yet, the Evangelical-Lutheran Church remains Norway's popular church (*folkekirke*) (Article 16). And whereas, in 1815, the Dutch constitution abolished the need for the King to be of the *Hervormd* faith, the Norwegian king is still required to "at all times profess the Evangelical-Lutheran religion" (Article 4).[91]

Although the term 'establishment' still reflects some reality, we should be careful not to overinterpret matters through this analytic category. I suggest, as elaborated in Breemer (2014, 2019), a more dynamic view of the Norwegian model, which entails a tradition of 'establishment': (1) the continuing hegemony of the Church of Norway and its continuing intertwinement with public institutions; (2) a growing

89 Going back to the reign of King William I, the Dutch state had provided direct subsidies for churches. The Church Building Subsidy Act (*Wet Premie Kerkbouw*) was abolished in 1982 (Maussen: 2009, 54). Since 1983, no structural scheme for direct subsidies is foreseen (Breemer/Maussen: 2012, 291). Yet, support for houses of worship can come from municipalities or as indirect support.

90 Also, in 2017 responsibility for the appointment of deans, bishops, and priests was transferred from the state to the diocesan councils or National Council (*Kirkerådet*). Since January 2017, the church is an independent legal subject, with the General Synod (*kirkemøte*) as its highest representative organ.

91 Since 2012, he is no longer obliged to "uphold and protect" it, Article 4.

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emphasis on religious freedom and equality between religious and secular communities, in light of the remaining Lutheran hegemony labeled as "compensatory evenhandedness"; (3) 'disestablishment,' the process of increasing independence and separation of the church from the municipality within the (Norwegian) state-church constellation.

In one reading of history, Norwegian state-church relations did not change their basic logic from the Reformation up to May 2012. As Thorkildsen (2012, 1) summarizes it, "Ruling of the Church was an integrated part of the ruling of the State."

With the Reformation, the Catholic bishops were removed from office, and the Danish King Christian III confiscated the church properties to amass wealth and to create an integrated state. Yet, he introduced Lutheranism in a "careful and peaceful way" (Thorkildsen: 2012, 2), appointing superintendents to replace the bishops but leaving much of the local structures of governance intact. Local representatives – well embedded in their communities – obtained an additional state (and thus church) – function. The local administration of the church thus became deeply intertwined with that of the local community or, after 1837, the municipality.

With the introduction of Absolutism in 1660, the King became head of the Church. Superintendents thus became servants to both the King and God. No other religion was permissible for the citizens of the Danish Norwegian kingdom; foreigners who entered the country had to sign a declaration of loyalty to the Lutheran teaching – or leave the country within 3 days (Elstad/Halse: 2002, 102). By the end of the 1600s, a gradual relaxation occurred vis-à-vis foreigners with whom the Kingdom trades,[92] albeit not for ordinary citizens.

The otherwise liberal constitution of 1814 continued this emphasis on religious unity. Article 2 stated that the Evangelical-Lutheran Religion remained the official religion of the state. And it prohibited Jews any access (abandoned in 1851). Unlike the Dutch constitution of 1814, no mention was made of an explicit right to religious freedom. Historians suggest that it had originally been included but vanished in a later version.

Throughout the 1800s, Norway evolved from an absolutist monarchy to a democracy. Industrialization and urbanization were impressed upon the relationship between church and the nation. In 1814, Norway was no longer part of Denmark but now existed in a loose union with Sweden (1814–1905).

In the second half of the 19th century, the idea of a Norwegian nation became very strong. Similar to the situation in France and The Netherlands, the political

92 Ambassadors (*sendmenn*) were allowed to practice a foreign faith. In 1685, the Huguenots were given the right to practice freedom of religion and given tax privileges. A range of cities allowed Jewish and Christian foreigners to practice their faith (Elstad/Halse: 2002,102).

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formation and construction of the nation-state were expressed in the realm of education. The basis of a common school (*allmueskolen*) was created in the Danish Norwegian kingdom by the pietist movements in the 1730s. State pietism[93] led to the introduction of obligatory confirmation and a Pontoppidan catechism. The goal of this church school was to create good Christians as well as loyal and disciplined citizens (Thorkildsen: 1998, 250).

From 1800 until 1950, the transition occurred from a church-run educational system to that of a modern state-governed educational system (Bakke-Lorentzen: 2007, 37). The common elementary school still had a religious background and Christian formation as its central aim, as reflected in the first school laws of 1848 and 1860. Yet, increasingly, the power of the church and its self-evident influence over the school system waned.[94]

Two features are interesting to note: Unlike France, where the common school was supposed to be a secular school, the option of a religion-free school seemed rather unpopular in Norway. Only in 1911 did the Labor party propose to establish a *bekjennelsesfri folkeskole* (and in 1918 to withdraw the subject of Christianity from its curriculum). Yet, by making these schools confession-free, it was feared that private confessional schools would subsequently blossom.[95] Second, unlike in The Netherlands, the Norwegian school system historically had privileged the *public* unitary schools (*enhetsskolen*) rather than the private schools.

Increasing religious freedom and democratization marked the early 1840s. The fight for religious freedom entailed two forms: a fight for freedom within the Lutheran faith, which was won with the abolishment of the Act of Conventicles in 1842 (*konventikkelplakat*). This entailed the prohibition of organizing for religious purposes outside the control of the state church. The second freedom concerned the right to belong to and organize other Christian communities, which was not realized until 1845 with the adoption of the Law on Christian Dissenters (*dissenter lova*) (Leirvik: 2007, 11). Yet, two groups were still seen as especially threatening: the Jesuit and Monastic orders (*Munkeordener*). Monks were allowed in 1897, but

93 This was enforced under Frederik IV (1699–1730) and Christian VI (1730–1746). Pietism was a reform movement internal to the church which emphasized internal revelation over formalized ritual and dogma. It argued that subjective experiences were central to religious experience and knowledge and thereby also allowed a larger role for laypersons (cf. Elstad/Halse: 2002, 114–115).

94 Conflicts arose during the 1870s between two upcoming parties (*Venste* and *Høyre*) of liberals and conservatives over the identity of the common schools. The liberals wanted a less church-oriented and more democratic and uniform schooling system (*enhets skole*), whereas the conservatives argued that the responsibility for education should remain with the state and church (Bakke-Lorentzen: 2007, 37–38). After the introduction of parliamentarism in 1884, it was the liberals who emphasized educational reform, culminating in the *folkeskoleloven* of 1889.

95 For a discussion, see Bakke-Lorentzen (2007, 40), who referred to the work of Eidsvåg (1996).

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the ban on Catholic Jesuits remained in place until 1956 (Leirvik: 2007, 12). Full freedom of religious practice for all did not appear in the constitution until 1964.

Furthermore, a process of general political democratization marks the 1840s, albeit with contradictory outcomes in terms of a separation of state and church. On the one hand, local government and churches become more interwoven, through decentralization and democratization. With the Alderman Act of 1837, national decision-making power was transferred to locally elected bodies, so that the church minister very often became leader of the new municipal board. One of the first responsibilities of the newly created municipalities was to take care of the local church and church affairs. On the other hand, because of a gradual internal church democratization process (*kirkelig reformbevegelse*), we also see demands for more separation of state and church from within the state-church framework. Not unlike The Netherlands at the time, the wish for more institutional independence vis-à-vis the state emerged.[96]

A consciousness arose that the Church of Norway was a spiritual community for which forced regulations were not appropriate (Molland: 1979, 9). Jens Lauritz Arup first articulated such a vision, consisting of a reorganization of the church by means of, for example, the election of parish representatives, as well as changes at levels higher up in the church hierarchy (Molland: 1979, 8). However, this movement was only moderately successful. Absalon Taranger, a professor in law, argued that a free popular church had to loosen its ties with the state, but not with the people (Oftestad/Rasmussen/Schumacher: 1991, 241).[97] An initial realization of Arup's proposals, however, did not come into effect until the 1920 Parish Councils Act.[98]

In the postwar period, the issue came up on the political agenda again with the 1945 Reform Commission, which proposed a church council (*kirkeråd*). Promises had been made to the church during the war for a new structure of self-governance. Yet, once again the reforms were struck down. The positive attitude of the political elite toward the church, which characterized the war period, evaporated in the 5 years thereafter (Furre: 1991, 191 and 278). Among other things, the "battle over hell"[99] confirmed fears in the Labor Party of the possibility of conservative forces in the church coming to power.

96 For a discussion, see Elstad (2002, 163) and Molland (1979, 8).

97 A 1908 church committee investigated the issue. A minority followed Taranger's proposal for a free church. The majority chose to retain the state church. When this advice was distributed for consultation among parishes and municipalities, the outcome was a total defeat of the idea of a free popular church.

98 This was followed by the introduction of the Council of Bishops (*bispedømmeråd*) in 1933 and the formalization of the Council of Bishops (*Bispemøtet*) in 1934.

99 This refers to a heated debate over the centrality of a belief in hell as part of the Lutheran dogma. Does the state have the power to decide this matter?

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Not until the early 1980s was the question of local reform of the church taken up again. The Church Act Committee (*kirkelovutvalgst* 1982), which is central to the 1996 burial law, is the first public report to address this theme so prominently.

Since the 1970s, Norway has followed a more generous 'freedom of religion' politics. The 1969 Act Relating to Religious Communities, etc. provides registered and unregistered religious and or secular communities with an economic budget. Its logic is a compensating one: maintain Lutheranism as default yet compensate other groups as well. The Council for Religious and Secular (in Norwegian 'Life Stance') Communities was established in 1996 with the aim of furthering equal treatment between various religious and secular communities in Norway.

Since May 2012, the constitutional relationship has loosened, although the state still maintains financial responsibility for employing bishops, deans, pastors, and other persons employed in ecclesiastical positions of regional and central church bodies. Also, at the local level, the municipalities remain responsible for the finances of the local churches, such as maintaining the offices or supplying materials related to the educational purposes of the Church.

In sum, proposals for increasing religious freedom and more internal church autonomy were countered throughout the second part of 19th century and the beginning of the 20th century by opposing concerns to avoid church reform and maintain the state-church link. Furthermore, at a local level the church remains firmly integrated with the local government. Opposition to loosening the state-church link came from forces within the Norwegian Church[100] and moreover resulted from a lack of political support for such decoupling in the Norwegian Labor Party. "People were afraid that religious and Pietistic elitists would seize power of their church" (Thorkildsen: 2012, 3). Not unlike the French Gallican effort, the Norwegian political establishment thus seeks control, albeit by means of a state church.

3.3.4 Comparative Reflections

The comparison of these otherwise rich and divergent histories reveals that the period from the 1840s to the early 1900s was particularly formative for state-church

100 For reasons of space and for analytical purposes, I must omit a discussion of the various groups and historical alliances that argued for or against the dissolution of the state-church link. *Grundvigians* typically supported an open conception of the church as including a wide range of people. Pietist groups typically defended a more circumcised idea of the church and what it means to be Christian; freedom from state interference was more central to their concerns. *Grundvigians*, who shared similar concerns about church autonomy, saw the benefits of an intervening state to keep the church open.

relations in all countries.[101] Liberal ideologies arose in all contexts and became part of the struggle to form a national identity. In France, this took the form of a historical struggle between the 'two Frances' and the rise of a 'militant secularity.'[102]

In The Netherlands, liberals had to fight against a plurality of confessional and nonconfessional groups. The result was compromise and a legacy that views all directions (*richtingen*) as equal ('principled pluralism'). In Norway, the construction of the nation-state plays itself out, among others, in the realm of education: Liberals fought for a less church-oriented and more democratic and uniform schooling system. Since the early 1840s, furthermore, we see processes of increasing religious freedom and internal church reforms for more church autonomy and disestablishment.

The legacies that emerge from this period support our conceptualization of these countries' state-organized religion regimes. This holds for both the standard as well as the more heterogeneous models. And these legacies can be seen as capturing, to varying degrees, the dynamic surrounding the formulations of the first burial laws.

We observed the increasing neutralization and 'laicification' of the French cemetery under the laws of the Third Republic and the 1905 law (confirming laïcité and our 'strict neutrality script') We observed an emphasis on religious plurality and the possibility of various confessional cemeteries arguing against liberal proposals for abandonment in the Dutch 1869 burial law (confirming 'principled pluralism' and 'separation tradition'). In Norway, the influence of liberal ideology is entirely absent in the formation of *funeral* regulations. Rather, we observe the completely interwoven governance of the Norwegian graveyard as an aspect of church governance in the 1896 Law on Churches and Churchyards ('establishment').

3.4 Conclusion

In preparation for the discussion of contemporary responses to 'new' diversity (see the next chapter), this chapter investigated the legal contours of these countries' burial domains. I treated three realms of interests: (A) Who governs the cemetery, i.e., who pays, administers, and owns them? Who decides the rules of access? (B) I extrapolated the leading normative commitments and social imageries expressed in these burial laws. The rest of the chapter (C) contextualized these contemporary

101 For the sake of comparison, I simplify here. In the case of France, Bowen argues that we need to look much further back in time, tracing the Gallican element back to Le Bel (1268–1314). For Norway, some of the main transitions in the state-church framework happened much later, in 2012.

102 The battle between proponents of a Catholic church and monarchy and the anticlerical Republicans gave rise to a stereotypical characterization of a militant laïcité, which I call 'strict neutrality scripts.'

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institutional formats by providing a two-fold genealogy, first tracing the historical transitions within the burial legislation itself (looking at a range of factors at play) and, second, providing a short historical overview of state-organized religion relations in each country.

A look at (A) shows that the differences in the legal contours of the burial domain are huge; for a detailed summary, see Table 3.1. The different ways these countries provided an institutional form of diversity in the cemetery was expressed through the legal abolishment of confessional graveyards and sections in France since 1804 and 1881/1884, respectively; the legal right to both in The Netherlands since 1804 and 1869, respectively; and the formal right for registered belief communities to their own cemetery in Norway since 1969. The legal possibility of establishing a confessional section is absent in the latter.

These differences manifest themselves furthermore through (B) different guiding normative commitments and legal social imageries. We found that France considered the principles of individual freedom of conscience and neutrality of the public space as legally relevant. The French cemetery has a strong symbolic dimension, signifying a public domain in which all Frenchmen and Frenchwomen are united and should be treated equally and neutrally. In the Dutch burial domain, the principles of individual and collective religious freedom are most prominent, resulting in a wide range of burial options. Early on, conflict management takes the form of extending a set of legal rights to all confessional and nonconfessional groups alike, rather than purging the public cemetery of a religious imprint, as in France.[103] And there are financial considerations to be reckoned with. In Norwegian law, the concern with collective equality is central, yet the legal right to one's own cemetery is not extended to nonreligious communities. As in France, individual equality matters. Norwegian regulations are the financially most egalitarian ones.[104] Quite unlike France, public cemeteries are the explicit embodiments of a cultural and Christian heritage, albeit downplayed in the latest legal reforms.

Lastly, (C) represents a two-fold genealogy of the burial laws and state-church approaches, so that we conclude that state-church relations played an explicit role in the formation of the burial legislation in tandem with concerns of hygiene and public health (see Section 3.2.4).

The standard pictures of laïcité, 'pillarization,' and 'establishment' were good approximations for the *legal* regulation of cemeteries. For France, the rise of a militant secularism (*laïcité du combat*) around the time of the Third Republic coincides with the neutralization of the cemetery (laws of 1881, 1884, and 1905). Legally, it captures an important part of the historical dynamic. For Norway, the

103 This is the legal imagery, though many French cemeteries have retained a clear Catholic character.
104 This involves costs for a grave but not the funeral ceremony.

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designation 'establishment' captured the completely interwoven legal governance of the Norwegian graveyard as an aspect of church governance, until at least 1996, when for the first time cemeteries became regulated by their own law.

However, a more nuanced reading of these countries' state-organized religion regimes (Section 3.3) reveals how these standard designations are not "wrong" but overshadow and oversimplify other historical readings.

For example, a look at The Netherlands shows that, rather than 'pillarization,' the battle concerning the formulation of the first burial laws is informed by ideas of religious plurality and the possibility of various confessional cemeteries against liberal proposals for abandonment ('principled pluralism' and 'separation tradition'), predating 'pillarization.'

For Norway, a more detailed historical analysis of the state-church regime shows the beginning of two other strands of reasoning in the 1840s that develop into 'compensatory evenhandedness' and 'disestablishment.' In Section 5.3.4, I argue that we see signs of the 'disestablishment strand' in the reasoning underlying the 1996 amendment.[105] And we can recognize a focus on 'compensatory evenhandedness' with the latest legal burial changes in 2012.

For France, the 'laic' characterization of legal burial regulations overshadows an earlier dynamic of municipalization of cemeteries that sought to support and control publicly recognized religions under the Concordat ('Gallican script'). The remaining confessional cemeteries and confessional sections were allowed to exist under the Napoleonic Decree (1804). Even today, this affects the regulation of cemeteries in three departments in the region Alsace-Moselle (see Section 3.1.1).

Apart from these historical details, in this chapter we discovered huge legal diversity between how these states give form to religious diversity in the cemetery. Second, we found the legal regulation of confessional sections and the possibility (or not) of confessional cemeteries to historically overlap with the broader regulations concerning organized religion and state.

Based on these findings, we might expect substantial differences in how these countries meet the contemporary challenges of new diversity in the cemetery. Is that the case? That is what we now want to find out. Further, how do these two institutional regimes inform national responses (Chapter 4) and everyday responses (Chapter 5) to the burial needs of Muslims and humanists?

105 A more explicit focus on 'compensatory evenhandedness' can be traced back to the wider state-church regime to the 1970s. It manifests itself in the 1969 Act Relating to Religious Communities with the allowance for private churchyards for registered belief communities and the 2012 legal changes.

Chapter 4: National Policies and Regulations: Responses to Muslims and Humanists

4.1 Introduction

The previous chapter discussed the legal burial regimes and their genealogies. Large national differences between countries exist in how they give institutional form to religious diversity in the cemetery, and in their social imaginary of what a cemetery is. Furthermore, the laws that regulate burial practices developed in a particular historical context, for which a national state-organized religion dynamic was relevant.

This chapter investigates what comprises these different legal burial regimes and the respective state-organized religion regimes in the face of today's common challenge. Legal frameworks necessarily must be interpreted in light of new situations in order to 'make sense' of the situation.

We look at the challenge of Muslim burial in all contexts as well as that of humanists in Norway. The newness of Muslim burial has resulted from changing migratory processes. Originally, Muslims were not part of the historical context in which modern burial and or state-church laws were formed. The novelty of humanist burial needs in turn arose more from endogenous changes in Norwegian society, an increasing pluralizing population. This entailed a growth of Muslim and Catholic minorities in particular as well as an increasing plurality in the forms of new religiosity internal to majority religions (cf. Holberg/Brottveit: 2014, 9). The position of humanists and other atheists in Norway is special: In no other country in the world is the Humanist Association (*Human-Etisk Forbund*, hereinafter HEF) so large.

How do these countries respond to these contemporary challenges on a national level over time? Do policy responses line up with burial laws and state-organized religion relations? This chapter looks at national policy responses as well as estimates of existing material provisions (drawing on Breemer/Maussen: 2012, 284–285 and Breemer: 2014, 178–188). National policy responses include proposals for legal changes, policy memoranda, guidelines, national declarations, and public recommendations (such as the French Administrative Directives, *Decrées* or *Circulaires*). But it can also include national research projects and plans like an inventory of available institutions, national subsidy schemes, and public reports like the official Norwegian reports (NOUs).

This chapter provides a general picture of significant national differences regarding the policy responses to Muslims. But these national pictures are less evident when we look at the actual provisions in place.

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This raises three puzzles: First, if a prohibition of special sections and confessional cemeteries according to *laïcité* constrains regulations toward Muslims, then why are there still 75 such *carrés* and two Muslim cemeteries? Second, why are there not more Muslim cemeteries in The Netherlands despite the evenhanded legal framework and pillarization legacy? And why are there no Islamic cemeteries in Norway at all? Central to the humanist complaint, the question arises why the Church of Norway gained administrative charge of the cemeteries in 1996 during increasing religious and cultural diversification in Norwegian society?

This chapter serves to answer these questions. For France, I review how specific ways of responding to Muslim burial developed over time that can explain at least part of the puzzle. Yet, for both the French question and the legal change in Norway in 1996, the municipal dimension is crucial. The reader must thus wait until Chapters 5 and 6 for the final analysis.

I introduce the challenge of Muslim burial practices in a context of immigration, followed by an estimate of the number of available provisions (Section 4.2). I then look briefly at the national responses (or the lack hereof) of each country regarding Muslims burial needs. And for Norway I discuss the humanist complaints regarding burial provisions (Section 4.2.3) and one set of arguments for the 1996 law, before summarizing the overall situation (Section 4.3).

4.2 Muslim Burial Practices in a Context of Immigration

As mentioned in the Introduction, European countries are increasingly witnessing a new stage in a migratory pattern. Today, Muslims from a diverse range of backgrounds not only live, but also work and die in the 'new land' and are also increasingly choosing to be buried there. Yet, research on this last aspect of the immigrant trajectory is scarce. Only a handful of studies have investigated Islamic burial in its ritual aspects from within a context of immigration.[1] They reveal the large variety of burial practices for the various Muslim groups coming from different countries (Dessing: 2001). Furthermore, they show how their 'rites de passage' have changed because of acculturation and settlement. Islamic burial in a context of immigration entails negotiations between theological commitments and pragmatic concerns (Jonker: 1996). Consequently, any talk of an 'Islamic burial' would misrepresent reality.

1 A discussion of changes in broader burial rituals would go beyond the scope of this project. See Døving: 2005; Dessing: 2001; Jonker: 1996; Aggoun: 2003, 2006; Chaïb: 2002; Richner: 2006. For works addressing the transnational aspect of death and migration, see Balkan: 2015a, 2015b, 2016; Gardner: 2002; Nunez/Wheeler: 2012; Zirh: 2012.

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Nevertheless, the wide variety of strands of both Sunni and Shia Islam do share some core ideas and practices. The most important prescriptions regarding death in Sunni Islam come from the *Hadiths* (Practices of the Prophet) and the different law schools (*fiqh*).[2] The Koran itself is not very explicit regarding burial rituals, though it does address the importance of the last judgment, the resurrection, and the afterlife. The Koran tells us that death is not the final stage, but rather the start of a new life. Burial should take place in the soil, at the place of death, to await resurrection. Similar to Jewish ideas about burial, the body should be returned to its creator, so cremation is strictly prohibited, as is exhuming the remains.[3]

Four sets of ritual practices are central to all strands of Islam.[4] In the order of sequence, (1) a qualified person from the community should ritually wash the body according to precisely defined rules, (2) then the body should be wrapped in a simple tissue called the *kafan*. (Here variations exist between different strands of Islam.[5]) (3) After the washing procedure (often in the Mosque), a final prayer is recited. (4) After being transported to the cemetery, the body should be buried in the soil, in the right position, namely, with the face toward Mecca.

A proper burial testifies to a life as a good Muslim, superseding the religious significance of, say, marriage or circumcision (Aggoun: 2006, 20). It underlines the personal responsibility of each Muslim toward his or her own life. But a proper burial is not merely a matter of individual preference (as many secular persons would presume). Rather, it obliges the community to find a collective burial area (Jews and Muslims among one another). The community should avoid commercial exploitation (all work being done voluntarily), emphasize modesty, and ensure the proper carrying and internment. A proper Islamic burial expresses communal solidarity. In institutional terms, this means Islamic cemeteries or Islamic sections within public cemeteries with graves in the direction of Mecca. And it means permanent grave-rest, burial without a coffin, burial within 24 hours, and adequate washing facilities.

Another picture indeed appears when we map the number of available Islamic sections and cemeteries to the estimated numbers of Muslims. France has a Muslim population of about 3.3–4.9 million, that is ca. 5.1–7.5% of the overall population.[6]

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2 There are four legal schools within Sunni Islam: Hanafi'I, Shafi'I, Hanbali, and Malika.

3 See Koran 50; 2–15, discussed in Aggoun (2006, 19). On the aspect of exhumation, it should be noted that some disagreement exists, see Jonker: 2004. Also, in practice, I have heard a wide range of interpretations, ranging from never to 30 years to when only bones remain.

4 These are addressed in the *Hadiths* and not in the Koran, see Aggoun: 2006, 19; Døving: 2005, 59.

5 Dessing (2001, 151–152) mentions several varieties: wrapping the body in three to seven pieces of cloth, three for Sunni Muslims and seven for Alevites, see also Jonker: 2004.

6 The numbers are controversial because formal statistics on religious affiliation are not allowed. I rely for all estimates in the three countries on the numbers of the SMRE and American PEW Research Center. The Swiss Metadata of religious affiliation in Europe base (SMRE) provides an overview of surveys and estimates that consider the number of Muslims in France to range from as little as 2%

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The first recruitments of Moroccan/Berber workers goes back to as early as 1911, with the largest wave of migration taking place after the World War II. A significant part of France's Muslim population comes from its former colonial territories and protectorates (Algeria, Morocco, and ess of oc).[7] Islam is commonly considered the second most popular religion in France after Catholicism (Cesari: 2002).

By comparison, there are an estimated 4.0–6.0% Muslims in the total population of The Netherlands. The largest wave of migration occurred in the 1960s and 1970s because of labor migration from Turkey and Morocco. A very small number of Muslims from former colonial areas settled in the cities of Leiden and The Hague before World War II.[8] Islam is the third most popular religion in The Netherlands.[9]

Muslims in Norway make up an estimated 2.5–3.7% of the total population. Norway is religiously speaking relatively homogeneous, with membership in the Church of Norway totaling some 70% of the total population (2018 data)[10]; 12.7% of the population belong to other religious or secular communities, so that 17.3% is unaffiliated.[11] The fastest-growing groups are Muslims and Roman Catholics (Thorkildsen: 2012, 1). Today, Muslims represent the second largest group, totaling 25.9% of all religious and secular communities outside the Church of Norway, with 175,507 registered members (in 2019). Humanists are the third-largest group, totaling 14.2%. They are closely followed by Muslims, with a registered membership of 96,276 (in 2019).[12] Based on these most recent numbers, 3.3% of the Norwegian population belong to an Islamic organization, 1.8% to the HEF. But, of course, the real numbers might be higher since not all Muslims or humanists are registered members. Adherents to Islam are largely Pakistanis who came to Norway for eco-

to as much as 8.5%. In their own dataset comparison from France 2006–2015, they estimate: 5.1% Muslims in France, 2.5% in Norway, and 4.0% in The Netherlands. Their estimate of unaffiliated persons for France is 50.5%, 46% for The Netherlands, and 17.6% for Norway. See https://www.smre-data.ch/en/data_exploring/region_cockpit#/mode/dataset_comparison/region/FRA/period/2010/presentation/bar [accessed 25 May 2020].

7 Many Muslims who came to France as colonial workers or colonial subjects had French citizenship or came as guest workers; see Témime: 1999; Sayad/Gillette: 1984; Noiriel: 1988; Maussen: 2009.

8 Some Moluccan families (from East India/Indonesia) arrived in the 1950s, and a larger number of Surinamese arrived both before and after the independence of Surinam in 1975. A Muslim population of varying ethnic origin arrived since the 1990s as political refugees or asylum-seekers from Bosnia, Somalia, Iran, and Afghanistan (Van de Donk/Jonkers/Kronjee/Plum: 2006, 114).

9 The Dutch Statistical Department (CBS 2017) estimates the following: 51% is nonaffiliated, 24% Catholic, 15% Protestant, 5% Muslim, and 6% other affiliation; see https://www.cbs.nl/nl-nl/nieuws/2018/43/meer-dan-de-helft-nederlanders-niet-religieus [accessed 25 May 2020].

10 In 2018, it had 3,724,857 registered members. This reflects a decrease of 3.0% over the last 3 years: https://www.ssb.no/kultur-og-fritid/statistikker/kirke_kostra [accessed 29 May 2020].

11 There are 678,433 registered members outside the Norwegian Church in 2019: https://www.ssb.no/trosamf [accessed 29 May 2020]. The SMRE estimates 17.6% to be unaffiliated.

12 See https://www.ssb.no/kultur-og-fritid/faktaside/religion and https://www.ssb.no/kultur-og-fritid/statistikker/trosamf [accessed 29 May 2020].

nomic reasons in the 1970s. A large number of immigrants arrived in the 1990s, consisting of refugees and asylum-seekers from Bosnia, Somalia, and Iran.

Thus, of the three countries, France has the most mature immigration pattern and – presumably – the highest Muslim mortality rate as well. It furthermore has the greatest number of Muslim residents in both absolute and relative terms. Yet, when coupled to the number of Islamic burial places in relative terms, it has the least. Norway, on the other hand, has the most recent migration pattern and the smallest numbers of Muslims but the most reserved sections relative to its estimated Muslim population. The question, of course, is *why*.

Table 4.1 Estimated Muslim population versus Islamic sections and cemeteries

	France	The Netherlands	Norway
% Muslims SMRE: 2006–2015[13] PEW: 2010	5.1% of the population versus 7.5%, totaling between 3.3 and 4.9 million citizens[14]	4.0% versus 6.0%, totaling between 696,000 to 1.0 million citizens	2.5% versus 3.7%, totaling between 133,000 and 197,000 citizens
No. Islamic cemeteries	2 (L'Ile de Reunion, 1911)	1 (Almere in 2007)	0
No. sections[15]	About 75	About 70[16]	About 25–50[17]
First Muslim area	1857 "Enclosure" Père-Lachaise for Ottoman Sultan	1930's Kerkhoflaan in The Hague for Indonesian Muslims	1970s Gamlebyen Pakistani Muslims
Repatriation rates[18]	80% (Algerians, Tunisians, Moroccans)	90% (Turks, Moroccans), Surinamese/Indonesian much lower	40–50% (Pakistani)

13 I relied on two estimates, one from the SMRE and one from the American PEW Research Center.

14 In calculating absolute numbers, I relied on 2020 estimates of the total population, for example, https://www.worldometers.info/world-population/france-population/ [accessed 29 May 2020].

15 These numbers are rough and rather problematic estimates. Aggoun (2006, 55) counts in L'Ile de France 23 sections; the cemetery of *Thiais* (11); the region of Nord-Pas-de –Calais (15). The region of la Basse Normandie has 7/8. In Marseille, there are (5), in l'Ile de Reunion (5). Furthermore, a section can contain 10 or 100 graves.

16 See Harmsen: 2007, 65–74. They stress that these are provisional estimates. Presently (August 2020), no updated numbers are available, though initiatives for a large second Islamic cemetery in Zuid Laren are underway. The organization BIBIN (*Bijzonder Islamitische Begraafplaatsen in Nederland*) is the initiative taker: https://www.bibin.nl/wie-zijn-wij/ [accessed 29 August 2020].

17 This number is based on a questionnaire executed by KA at the request of the Church Department in 2009 (*Gravferd i et flerkulturelt samfunn*, KA 2010). Of the 349 joint parish councils, 50 (14.3%) replied that they had provided for a section for Muslims; 40 (12%) answered that they had an agreement with a neighboring municipality to bury their Muslim citizens there. St.meld.no. 17: 2007–2008, p. 105, mentions 25 sections.

18 The repatriation rate refers to the estimate of persons returned to the country of origin or to that of their parent's origin. These are informal estimates based on public documents, reports of burial agents, or Muslim representatives. Dessing (2001) mentions 99% for Dutch Turks and Moroccans.

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This might be explained based on the countries' state-organized religion regimes, though that raises a further question: If burial regulations in France are constrained by *laïcité*, why are there still nevertheless 75 *carrés* and two Muslim cemeteries? And, if The Netherlands applies a logic of pillarization to religious groups, why are there not *more* Muslim cemeteries there? Norway's institutional accommodation toward Muslims seems in line with what we could expect from 'establishment', encompassing as it does an expectation of 'compensatory evenhandedness.' Yet there are no Islamic cemeteries in Norway, despite their legal permissibility. And in light of the many humanists, why did the Norwegian state charge the church with the responsibility for public cemeteries in 1996? This is in line with 'establishment,' in the sense that the hegemonic position of the Church of Norway is maintained (or made clearer) in this domain. And, indeed, one set of national arguments here discussed confirms such a reading. Yet, this cannot simultaneously explain the situation *before* 1996. Furthermore, this church-run administration compromises evenhandedness toward non-Christian minorities or humanists. It occurs in a time of rapid increase in religious pluralism.

Before we turn below to the national policy responses, I would like to situate the existing provisions toward Muslims in an estimate of total existing confessional cemeteries to provide the reader with a sense of how exceptional they really are: There is only *one* Muslim cemetery in The Netherlands, despite the vast range of confessional cemeteries. Yet, there are two Muslims cemeteries in the country in which they are prohibited!

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Table 4.2 Existing confessional diversity among cemeteries/crematoria

Confessional diversity	France	The Netherlands	Norway
No. of cemeteries	Around 50,000[19]	Around 4,000	Around 2,000
Nature of diversity	Seen as 'exception'	Huge diversity	Little diversity
Specified	A handful of Jewish and Protestants cemeteries from before the Napoleonic Decree (1804) and for Jews (1806). Exceptions in Departments of Alsace-Lorraine, Haut Rhin, Bas Rhin, which fall under Concordat arrangements	Roman Catholic (1311), Protestant Dutch Reformed (910), Calvinistic (11), Evangelical (1), Herrnhuters (2), Lutheran (1), Reformed (2), Syrian Orthodox (1), Old Catholic (3). Private ownership (196), municipal (1487), or 34.52% of total[20]	Local Christian (3/4), Quakers churchyards (2), Catholic churchyards (2), Free-church (*Frikirkelige*) graveyards (2/3)[21]
Jewish cemeteries	Perhaps 5 (before 1804)	267	3[22] (2 in Oslo and 1 in Trondheim)
Crematoria and % cremation for 2018[23]	147 crematoria, 38% cremation	68 crematoria, 61% cremation	26 crematoria, 39% cremation[24]
Ownership crematoria	Municipalities	For the most part private companies and some municipalities	Municipalities

Moreover, there is a wider set of burial issues, not discussed in further detail. The table below conveys how the Muslim demand for burial without a coffin, within 24 hours, and with permanent grave-rest poses legal problems in almost all countries.

19 Interview with an anonymous person. Estimates lie at 36,000 municipalities and 50,000 cemeteries. A national organization charged with the inventory of cemeteries mentions 44,052 localized cemeteries and 4,218 to be further investigated; http://www.cimetieres-de-france.fr [accessed 25 May 2020].

20 The source is a personal list created by a funeral expert.

21 There are Christian cemeteries in the surroundings of Kristiansand in Egersund and in Lofoten; 2 Quakers churchyards in Roga-land; 2 Catholic ones, in Trømse and Alta; and 3 Evangelical Lutheran Free Church churchyards in Levanger and Larvik (St.meld. no. 17: 2007–2008, p. 105).

22 In 1896, Jews in Kristiania bought a part of Sofienberg kirkegård, and in 1917 they established a graveyard at Helsfyr (Plesner/Døving: 2009, 76).

23 For the data from all countries, I rely on estimates from the French Association of Funeral Information (AFIF): http://www.afif.asso.fr/francais/conseils/conseil33.html#INFORMATIONS%20GENERALES%20 [accessed 25 May 2020]

24 The *Norsk forening for gravplasskultur* reports a 44% cremation rate in 2019, see https://gravplasskultur.no/wp-content/uploads/2020/05/kremasjonsstatistikk-2019.pdf [accessed 25 May 2020]

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Yet, it does not necessarily create *practical* problems.[25] We see that the constraining limits on these accommodations are concerns with urban planning, hygiene, or commercial exploitation. The Netherlands is most permissive by comparison.

Table 4.3 Additional Islamic burial needs and their permissibility

Burial needs permissible?	France	The Netherlands	Norway
Burial without coffin	No. Article R. 2213–15 du CGCT. Concerns with public health and hygiene	Yes, since 1991 burial law. Article 3, Decision on the Bill on the Disposal of the Dead [*Besluit op de Lijkbezorging*]	Yes.[26] In special cases the Joint Parish Council can allow exceptions from the demand for coffin burial (*Gravferdsforskriften* Para. 28).
Burial within 24 hours	No. Minimum 24 hours. Article R2213–33. Yet, possible in case of an epidemic or for medical reasons	No, minimum of 36 hours, but it is possible with permission to bury between 24–36 hours acc. to Article 16 Wlb (happens nevertheless in practice).	No (?) No mention of minimal time period, but latest 10 days after decease (Para. 12)
Right to bury on Sundays	No. Sunday is the legal day of rest of the work week (*Code du travail*).	Yes, when private cemetery. It is unknown when public.	No/Yes (depends). Constraints from Norwegian public work hours, but solved by delegating to burial company[27]
Permanent grave-rest possible?	No. Some 'infinites' (*perpètuelles*) do remain, though rare. No private cemeteries provide permanent grave-rest. Concerns lie with urban planning and available space.	Yes, in private cemeteries, or by extending the grave-rest. Limiting concerns: urban planning, available space as well as commercial exploitation.	Yes/No (depends). It is possible in one's own graveyard, or by extending grave-rest at a public cemetery, yet a 60-year limit.

25 The demand for burial within 24 hours is not legally feasible, yet it is also not an obstacle. Muslims adapt, or it is allowed to occur in practice nevertheless (Interview with member Al Raza, 17 June 2009).

26 *Forskrift til lov om gravplasser, kremasjon og gravferd* (*gravferdsforskriften*), Para. 28.

27 Because the Islamic funeral agencies are private companies, they are more flexible and can accommodate Sunday burials. The church warden or hospital gives them the keys to enter, so they can do the washing and burying themselves (Døving: 2005, 116).

4.2.1 France: *Les Carrés Musulmans* from Illegality to Practical Permissibility

With France, our first country, we limit our discussion to that of special sections and confessional cemeteries. The previous discussion gave rise to a mixed picture. France has fewer available Islamic sections relative to its Muslim populations than the other two countries, yet it has many more than one would expect from its legal framework. To account for these contradictory findings, we thus need another explanation than the burial laws and their inherent social background. One part of that puzzle is the slowly changing formal political attitude in France.

In France, *les carrés Musulmans* is a topic of relative controversy at the everyday level. Separate confessional areas are seen by some as a dangerous practice leading to communal tensions (*crispation communautaire*) or a ghettoization. As one of my informants who chose to remain anonymous strongly expressed it in an email:

> I went this afternoon to a recently constructed cemetery where there is a Muslim section, a Jewish section, a Christian section, and then some others, it is upsetting, ... it resembles the ghettos (my translation).

Yet, *les carrés Musulmans* is in fact a rather 'dead' (or at least dormant, excuse the pun) issue when it comes to national politics or media coverage (unlike that of, say, headscarves). Nevertheless, over time we do observe an increasing political awareness that the Muslim population is growing, and that there are few provisions available to meet the challenges.

But there are two story lines: Informally, in 1957, France installed a Muslim division in the cemetery of *Thiais*.[28] And as we discuss in Chapter 5, a range of historical 'exceptions' existed even before this time. Yet, formally, the solution in the cemetery of *Thiais* was given legitimacy only in 1975 by an administrative directive.[29] This directive, published by the Ministry of Interior, claims that the mayor can, but is not obliged to, construct "confessional groups of graves under the condition that the neutrality of the cemetery is particularly preserved" for all "Frenchmen of the Islamic confession" (Circulaire n° 75–603 du 28 novembre 1975). The area should furthermore remain open to all families of all religions (Conseil d'Etat: 2004, 32).

The primary legal concern of this directive is not to avoid groups of Muslim graves or the fact that groups exclude nonmembers. (Some public actors indeed

28 See discussion in Laurence/Vaisse: 2006, 142; Frégosi/Boubeker/Geisser: 2006.

29 A *circulaire* has the status of a public recommendation that has no legal binding powers.

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make these arguments).[30] Rather, its prime legal concern is with the neutrality of third parties. Allowing for divisions in the graveyard might seduce the mayor to take confessional characteristics into consideration in the allocation of a grave.

France thus settles the issue through a public recommendation and thereby avoids changing its legal framework or providing for a legal exception for Muslims, which would have legally challenged *laïcité*. Furthermore, this directive delegates the decision to the mayor, the dominant strategy for two further directives from 1991 and 2008.[31]

Toleration and minimal accommodation of Muslim religious needs characterize the state's attitude in the period from the mid-1970s until 1989. From 1989 on, the government proactively tries to place Islam within the larger state-church framework (cf. Vaisse/Laurence: 2006, 137).

This occurs against the backdrop of two developments: From 1981 on, foreigners were allowed to create an *association culturelle*, as stipulated in the 1901 law (cf. Godard/Taussig: 2007, 165), so that the Islamic landscape becomes overall more diversified. Organizations like l'OUIF[32] and the FNMF came into being in 1983 and 1985, respectively. Furthermore, an increasing number of voices begins to oppose the previously powerful position of the Mosque of Paris (*la Grande mosque du Paris*, GMP) and the Algerian influence behind it. For the French state, the need for a formal interlocutor that can serve a larger constituency than just the GMP becomes a pressing matter.

Second, the events of the Rushdie affair – and the headscarf affair in 1989 – led Socialist Minister of the Interior, Pierre Joxe, to initiate CORIF,[33] which aims to "put in place the right and duties of Muslims" (Godard/Taussig: 2007, 167). This leads to the 1991 second directive, which further prescribes *les careés confessionels*. It adds that burial in that particular area cannot take place other than because of the explicit will of the deceased, the family, or another person in charge; that burial in other areas of the cemeteries must still be possible; that the confessional part cannot be

30 As Koopmans/Statham/Giugni/Passy (2005, 56) analyze: "The fact that churchyards were not open to everybody […] was seen by the state as unjustified discrimination and against the universalist principle of equality. Muslims insistence not to be buried among 'nonbelievers' is now often seen in that same light." This is indeed a type of reasoning in the everyday world, where administrators link the matter to a history of Catholic exclusion. Yet, legally speaking, the French sections *are* open to all.

31 For alternative solutions in a similar case in a Swiss Canton, see Pfaff-Czarnecka: 2004.

32 This large Islamic federation incorporates more than 250 different Islamic organizations, formalized under the 1901 law. *Union des Organisations Islamique de France*. The *fédération nationale des musulmans de France* (FNMF) is a traditional Islamic group with ties to Saudi Arabia and Morocco.

33 CORIF, *Conseil de Reflexion sur l'Avenir de l'Islam en France* (1989–2004), is dedicated to improving some of the living conditions of the Muslim population in France, see Laurence/Vaisse: 2006, 145; Hakim: 2005, 101.

separated in any visible or material form from the rest of the cemetery. And finally, as mentioned above, the mayor cannot take the opinion of religious authorities into consideration in their decision on burial allocation (*Bilan et perspectives de la législation funéraire*).

On the one hand, these directives show the political will to find a solution. The latest directive of 19 February 2008 (p. 8, annulling the two previous directives) likewise holds:

> While firmly emphasizing the laic nature of the public spaces, in particular the cemeteries, it seems desirable, out of a concern with the integration of families because of immigration, to favour the burial of their close relatives on French territory.[34]

On the other hand, France shows an equally strong political will to avoid legalizing the *carrés*. As expressed in a letter from the Ministry of Interior, Security and Public Freedom in 2003, "The law concerning cemeteries and Muslim parcels *does not* require substantial modifications" (my emphasis).[35]

The result is a legal dilemma for the mayor: The confessional section is without legal status, and the penal code punishes any violation of neutrality in the allocation of graves. This is a sanction unknown in Dutch and Norwegian burial law.[36] For Muslims, too, it brings insecurity, who, as a religious community, have no reasonable option – let alone a legal right – to be accommodated in their burial needs. The result is a section without legal and formal status, best described as "the factual grouping together of graves, the sum outcome of individual decisions" (Machelon: 2006, 61).[37]

Over the past two decades, increasing mortality rates have caused the burial of Muslim citizens to become a challenge. Since 2000, national political initiatives have taken up the situation regarding Muslim burial needs. *La consultation de*

34 "Si le principe de laïcité des lieux publics, en particulier des cimetières, doit être clairement affirmé, il apparaît souhaitable, par souci d'intégration des familles issues de l'immigration, de favouriser l'inhumation de leurs proches sur le territoire français"; my translation.

35 Lettre du Ministère de l'intérieur de la sécurité intérieur et des libertés publiques, 13 August 2003.

36 In *Epox Darmon*, 5 July 1993, the administrative Tribunal in Grenoble rejected the decision of the mayor to deny a Jewish boy burial in a Jewish area. The mayor had decided to refuse the boy's interment because the Jewish community had not recognized the boy as belonging to the Jewish confession. The court ruled that the mayor should have taken general concerns into consideration and not have delegated his authority to religious leaders (Machelon: 2006, 62).

37 It mentions: "le regroupement de fait des sépultures, comme somme de décisions individuelles"; my translation.

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l'islam[38] installed a workgroup on the construction of mosques and Islamic burial (Godard/Taussig: 2007, 173), also formulating policy guidelines for the newly institutionalized (CFCM) and related regional councils (CRCMs).[39]

In 2005, Nicholas Sarkozy, then leader of the UMP (*Union pour un movement populaire*), a center-right political party, commissioned the Machelon report. The mission of this report was to investigate the relations between the public authorities and organized religion. To resolve the existing legal insecurity of the mayors, it suggested two additions to existing guidelines, providing legal support to the mayors for taking the expressed religious convictions of the deceased or the deceased's family into consideration.[40] Second, it suggested, in cases where *carrés* lead to "too much local resistance" or become "a very contentious issue," to extend or create new private cemeteries. While "conscious of maintaining the principle of *laïcité*," the commission preferred the reintroduction of the private confessional cemetery "rather than to impose on the mayors the management of truly confessional parts of the municipal cemeteries" (Machelon: 2006, 65).

The report stirred much controversy, raising questions about the status of *laïcité* itself.[41] The 2008 directive did not take up any of its recommendations.

4.2.2 The Netherlands: Lack of Contestation

Muslim newcomers in The Netherlands do not pose a similar challenge in the matter of burial regulations. The topic of Muslim sections (*islamitische grafakkers*) is not a very prominent issue of social contestation. Legally, there are no obstacles to declaring part of a municipal cemetery to be Islamic or setting up one's own cemetery, and indeed many municipalities are very forthcoming. Yet, there is a degree of Islamophobia in Dutch politics, and some even mention that "they do not want to adapt to our society, and now they want in addition their own grave-

38 *La consultation de l'islam* is a forum for a dialogue with Islam. It led to the formation of the *Conseil Français du Culte Musulman* (CFCM) in 2003. The ministers of Internal affairs Jean-Pierre Chevènement (1997–2000) and the socialist Daniel Vaillant (2000–2002) initiated it.

39 *Conseil Français du Culte Musulman* and *Conseil Régional du Culte Musulman,* respectively. It proposed making an inventory of all available burial spaces, to inform mayors in an 'objective manner' of Muslim needs. It recommended the creation of Muslim sections on intermunicipal cemeteries and to prioritize the creation of sections in existing urban development plans. On the Muslim side, it recommended distribution of information about burial legislation, see Hakim: 2005.

40 It proposed to add the following to the primary 'neutrality' article L2213–9: "In the exercise of police function, the mayor should always take the expressed will of the deceased into consideration regarding their belief/conviction." To article L2223–13 it added: "Consideration is given in this regard to the expressed religious conviction of the requestor" (Machelon: 2006, 65, my translations).

41 See my discussion in Section 7.3.3.

yard" (email graveyard director).[42] Some newspaper articles report that a high rate of repatriation still characterizes the burial pattern of large parts of the Muslim citizenry.[43] However, the issue has nowhere had the symbolic burden as it has in France.

Also, The Netherlands has been quite accommodating concerning the other Muslim demands for burial provisions. As far back as the 1980s, policymakers were discussing adapting the existing burial laws to remove all unnecessary obstacles for Muslims and other religions. Under discussion were burial without a coffin, burial within 24 hours, and separate Muslim cemeteries (Shadid/Van Koningsveld: 1991). Burial without a coffin has been permissible since 1991, whereas the demand for burial within 24 hours is legally still not permitted (Wlb, Article 16).

In practice, however, Muslims can claim an exemption to the existing 36-hour rule, with the permission of the mayor and the Commissioner of Provinces. Thus, they can bury between 24 to 36 hours (Wlb, Article 17). Nevertheless, burial *within* 24 hours is still not possible because such a decision – in this case, by the mayor – cannot be enacted as long as it is still open to appeal (Wlb, Article 88).[44]

So, all seems well in The Netherlands. Nevertheless, as one research project revealed, within the Dutch Muslim community there is a perceived need for better Islamic burial provisions. There is little confidence that burial according to Islamic ritual is in fact possible (Baba/Gustings: 2004).

One issue lies in the availability of Muslim cemeteries and the possibility of realizing permanent grave-rest. To date, there is only one dedicated Muslim cemetery, inaugurated in June 2007. Plans for a second cemetery in Zuid Laren are (April 2020) well on its way but have not yet been realized.[45] Furthermore, the total number of Muslim *grafakkers* would be insufficient if all Muslims were to desire burial in The Netherlands.[46] Regarding the issue of permanent grave-rest, this is possible in a

42 Email correspondence, 30 March 2009 with a graveyard Director in Dordrecht, who reports on common complaints heard (my translation).

43 For example, Enklaar (2008) in NRC 29 July 2008 and Veen/Pietersen (2007) in Trouw 23 November 2007.

44 People told me that burial within 24 hours still happens.

45 For a discussion, see Van den Berg: 2020 in De Volkskrant 27 January 2020.

46 I have omitted a study of the factors explaining these repatriation patterns. For this, see Balkan: 2015a, 2015b, 2016. All percentages are informal estimates. Patterns of repatriation are most likely caused by a combination of factors, both host-society characteristics and cultural customs and ideas within the communities themselves and their related institutions, e.g., the Moroccan life insurances. Døving discusses how Pakistani funeral committees in Norway (*begravelseskomitées*) assist the families with the burial process. They can have 10 to 100 families as members. Their board consists out of several persons with a high education or solid standing. They come in three forms: arranged by particular mosques, private, or as committees aligned with particular cities in Pakistan. They assist families in navigating between Norwegian rules and Pakistani praxis (Døving: 2005, 91–92).

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private cemetery, and technically families can prolong the grave-rest term infinitely. Yet, this requires both the corresponding financial means and future generations to care for the grave (Harmsen: 2005).

4.2.3 Norway: Why French Muslims Are Like Norwegian Humanists

The situation for Muslims in Norway is quite similar to that in The Netherlands. Norwegian municipalities, like their Dutch counterparts, take the initiative in constructing Islamic sections. Legally, Islamic sections are neither prohibited nor a legal right. They exist particularly in the areas around Oslo, Norway's capital city. There is good cooperation between the Norwegian Islamic Council and the Joint Parish Councils.[47] The public debate tends to focus rather on the hijab or forced marriage than on matters of death and burial. Accommodation in the cemetery functions as an example of successful integration. In the words of the former leader of the Norwegian Islamic Council, preceding the opening of a Muslim section in Høybraten:

> The Islamic Council is grateful for the work done, but it would at the same time like to point out an issue for reflection in today's heated debate about Muslims and values. Is it only after death that the humanity of Muslims is undebatable? Is it only then that it is clear what integration is about, namely, finding practical solutions? (Ghozlan: 2004, my translation).

Yet, as a national research project reveals, Muslims express the wish for some improvements:

> The (obligatory) use of a coffin is seen as the biggest challenge. There is a clear desire for a graveyard managed by Muslims themselves so that both the demand for burial in a coffin as well as the need for deviating from the constraints of working hours and holy days can be put aside. Especially those active in the Shi'a mosques express such a wish. The section at Høybråten is seen as small, and the wish that Muslims themselves should manage this is prominent (Plesner/Døving: 2009, 85, my translation).[48]

Furthermore, in some areas outside Oslo the wish for a demarcated section is not appreciated. Some parish councils refuse to bury Muslims in the direction of Mecca. As the Parish Council in Balestrand puts it: "Graves in the direction of

47 I base this on interviews held with Islamic burial agents from Al-Khidmat, 29 April 2009, and the Secretary General of the Islamic Council of Norway, 27 July 2009.

48 This research project, *Livsfasesriter,* commissioned by the Council of Religious and Life Stance Communities, charts the challenges in terms of life rituals in Norway.

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Mecca are very inefficient."[49] The municipalities, particularly the smaller ones, do not always have the means, the technical capacity, or the will to accommodate Muslim wishes. Or there is a willingness to find solutions, but not to provide for a separate section (Søberg: 2009). Rather than foreseeing separate sections, the parish councils propose the separate consecration of individual graves as a solution. "We do not want sections for special groups. The law does not require this" (Heggelund: 2012).[50]

This scepticism toward separate sections, discussed in more detail in Chapter 5, has also been translated into law. In the revised 1996 Funeral Act, the legislators avoided any reference to explicitly separate sections, and Section 5 in the former Funeral Act was removed. The latter had allowed for consecrating (*vigsling*) parts of a churchyard (*kirkegård*) for religious communities outside the Lutheran faith. Section 5 in the new Funeral Act, on the other hand, mentions the possibility of consecrating (*innvielse*) the cemetery as long as one does not show disrespect to other communities.

The senior advisor involved in the 2012 revisions of the 1996 Funeral Act explained this to me[51]: They avoided a passage allowing for separate sections in public cemeteries because of integration concerns, "in order to be as equal as all the others." Social democracy and welfare-state ideology, he said, result in the fact that, in the cemetery, "we are all the same."

4.2.3.1 The Norwegian Humanist Association

The second group of burial challengers, the humanists, have long been sceptical about this ideology of sameness and equality. To their mind, the default offer for burial, while free for all, is not "equal for all."[52]

As mentioned in the book Introduction, the number of humanistic burials is small compared to the presumed number of Muslim burials in the other countries. The Norwegian Humanist Association (HEF) is in charge of around 570 humanistic burials annually.[53] Yet, analytically speaking, this comparison is relevant because both groups challenge aspects of the symbolic burial order across national contexts.

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49 See http://www.nrk.no/nyheter/distrikt/nrk_sogn_og_fjordane/1.7321326 [accessed 29 May 2020].

50 These are the words of the church warden in Brummendal, quoted in the newspaper, my translation. The churchyard provides for Islamic graves, but not in a separate section. Also, see the hearings response in the Parish council Dovre (Prop. 81L: p. 15).

51 Interview with a senior advisor in the Ministry of Government Administration, Reform and Church Affairs, 7 December 2012.

52 "Inequality in the grave" is the HEF's official framing (Plesner/Døving: 2009, 81).

53 There has been a small rise in numbers. In 2013, there were 562 burials; 541 in 2014; 541 in 2015; 578 in 2016; 538 in 2017; and 590 in 2018. Email 20 November 2018 from a Senior advisor (HEF).

And, in the case of Norway, including humanists allows comparison between different minorities within the same state. Thus, I shortly discuss the humanist critique before addressing the 1996 burial law.

Since its founding in 1956, the HEF has fought for the separation of state and church. It campaigns to provide Norway's nonreligious citizens with ways to celebrate their rites of passage without religious elements. This includes naming ceremonies, weddings, confirmations, and, of course, burials. One of its biggest successes was the installation of the 'civil confirmation.' Executed for the first time in 1951, around 16.8% of all Norwegian youths choose a humanistic confirmation in 2016.[54] They also offer a humanistic burial, which is defined very openly: "A humanistic burial is based on humanistic values, and it is not natural to choose poems and songs with a religious content in the ceremony."[55] HEF offers its own certified burial ceremonial leaders.

In the realm of burial, humanists find that the influence of the church is, anno 2020, still very strong. The Church of Norway is still in charge of 90.2% of all burials annually in Norway (2013 data), a minor decline since 2003 when it was 94.4% (cf. Holberg/Brottveit: 2014, 21).

Four main points mark the HEF political agenda: First, they complain that, while in public hospitals there is a standard offer to talk with a priest on one's deathbed, a similar offer to talk with representatives of other confessions is not available (Plesner/Døving: 2009, 80). Second, and more symbolically, they object to the strongly Lutheran coloring of the public cemetery and the public municipal crematoria, which are often loaded with Christian symbols. They also protest the lack of neutral ceremonial rooms in the smaller Norwegian cities.[56]

In regard the latter and third pont of complaint, a 2008 political agreement (*Kirke-statforliket*) between all parties in the Norwegian Parliament promised improvements in the situation regarding ceremonial rooms. This followed in the wake of a 2006 government commitment to pursue an "actively supportive religious and life-stance policy" (NOU 2006: 2). A formal report to the national assembly from 2008 promised to start an investigation with the aim "to legally anchor municipal responsibility" for a neutral ceremonial room for burial and marriage in each municipality (St.meld.no. 17: 2007–2008, p. 12).[57]

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54 See https://human.no/globalassets/dokumenter/statistikk-konfirmasjon-2014-2016.pdf [accessed 29 May 2020]. For a good discussion of founding years and ideas of the HEF, see Knutsen: 2006, 22–53.

55 See https://human.no/seremonier/gravferd/ [accessed 29 May 2020].

56 Families must gather in the chapels next to the church, which often bear a heavy Christian imprint and are too small and cold in winter. Or they are directed to public spaces like sports halls or cinemas in case of large gatherings.

57 "med sikte på lovfesting av et kommunalt ansvar […]," my translation.

Yet, thus far, such a legal anchor is still missing; instead, the state provides for practical accommodations. The report declares:

> (T)here do not seem to be serious arguments for changing today's legislation. At the same time, we will make accommodations to accommodate minorities (St.meld.no. 17: 2007–2008, p. 11–12).[58]

In 2012, the Department of Culture, as part of a trial project, offered financial support for municipalities that wished to construct a neutral ceremonial room. Municipalities, parish councils, or even private owners of chapels or ceremonial rooms within five counties[59] could apply. Yet, they withdrew the offer when the last pot of 7 million in 2015 failed to generate sufficient demand.[60]

The HEF's most central – and fourth point – of complaint concerns the Lutheran ownership and administration of the cemeteries since 1996.[61] In fact, three later advisory committees (2002, 2006, and 2013) discussed the question of burial administration and recommended municipal administration.[62] Yet, each time the state maintained that the church should retain the responsibility.[63]

Practically speaking, this 1996 law demands that the church warden and other graveyard employees report to the Joint Parish Council – and being a graveyard employee requires membership in the Church of Norway![64] Particularly in Oslo, cemetery workers object to such a demand. Therefore, the graveyard and burial's agency, the city of Oslo (*Gravferdsetaten i Oslo*), now (since 1977) insists on having de facto administrative responsibility over the cemeteries.[65]

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58 "(D)et ikke sees å foreligge tungtveiende grunner for å endre dagens ordninger. Imidlertid skal det gjøres tilpasninger for å ivareta minoritetene," my translation.

59 This involved Oslo, Akershus, Rogaland, Sør-Trøndelag, and Troms. 5 million kroner were offered in 2012, 7 million in 2013, and 10 million in 2014 [accessed 2 June 2020]. https://www.regjeringen.no/no/aktuelt/Utlysning-av-midler-til-livssynsnoytrale-seremonirom/id2001207/

60 According to the main humanist representative on this matter, this should not be read as a lack of need but the result of insufficient dissemination of information and potentially testimony to the meager political will at the local level. Local politicians may be afraid to make choices that go against the status quo (email correspondence 11 November 2018 and phone conversation 4 November 2018).

61 Interview with HEF representative, 22 October 2008, and interview with General Secretary for the Council of Free Churches, 24 November 2008.

62 This includes the Bakkevig Committee (2002), a church advisory committee, the Gjønnes Committee (2003), a public committee (NOU 2006: 2), and the Stålsett committee (2013), see NOU 2013: 1.

63 An important recurring argument after 1996 was that "the Church of Norway is professional enough to treat everyone equally" (NOU 2006: 2, p. 136). In other words, this inequality is justified by procedural reasons, and those affected by it judge it to operate fairly.

64 Exceptions exist for those who have tasks unrelated to church functions, see Funeral Act, Para. 22.

65 This status was recently reconfirmed. The graveyard and burial agency, the City of Oslo, makes

Nevertheless, despite this possibility for local solutions[66], the HEF and the Free Churches (*frikirkelige*) object on principled grounds.

> It is very disappointing that the political parties continue this public form of discrimination. It is unjust that *one* belief community be given the legal responsibility to administer all communal graveyards/churchyards in which *all of us* should/will be buried. It should be the responsibility of the municipality to provide this service with neutral values as its point of departure (Representative of the HEF).[67]

What are the arguments behind this initial 1996 decision? It occurred at a time when Norway was experiencing a dramatic increase in religious diversity and growth of 'immigrant religions,' especially Buddhism and Islam (cf. Leirvik: 2007, 14). The influx in the 1970s primarily of Pakistani and Turkish labor migrants to Norway was followed in the 1990s by a wave of asylum-seekers and refugees fleeing the Balkan wars. A general consciousness developed that religious minorities need to be taken seriously in their institutional and public demands, and that, as a government report stated, "cultural diversity enriches and strengthens our community" (St.meld.no. 17: 2007–2008, p. 7).

For one part of the answer we have to go back to the (1982) *Kirkelovutvalget* that preceded the 1996 change. As discussed in Section 3.3.3, the Ministry of Culture and Church Affairs[68] aligned itself with the opinion of the minority of this Church Act Committee. It perceived cemeteries as a place conveying cultural and religious burial customs. Their administration should therefore not be considered a purely administrative and neutral matter. Central to this argumentation was the relevance of church traditions:

> According to the Ministry, it seems unwise to break with the centuries-long and deeply engrained traditions in this area, traditions that connect the burial realm and the churchyard administration closely to the church administration in a broader sense. […] Based on the consultations, one should expect that it would be perceived as unnatural, unnecessary, and incomprehensible to change well-functioning and traditionally established regulations for churchyard administration (Ot.prp. no. 64: 1994–1995, p. 43, my translation).

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decisions regarding the daily activities. In the case of eventual complaints, the Parish Council/Council of Bishops is responsible (email correspondence with Director Gravferdsetaten, 27 November 2018).

66 The 1996 act allowed for local solutions. The municipality can also assume the responsibility for the graveyard administration (NOU 2013: 1, p. 212), which, in five municipalities, is the case.

67 Quote from his personal archive (Arkiv: 5478 VT). Translation and emphasis by the me. Also, for similar ideas, see *Fri Tanke* May 2008.

68 *Kultur- og Kirke departementet*. This department is now (anno 2020) called the Culture Department.

Furthermore, in that same document the Ministry adds an argument about Christian burial customs and Christian cultural foundations:

> Our increasingly pluralistic society, according to the opinion of the Ministry, does not weigh heavily enough when 95% of the country's population still chooses a church burial and our society's burial customs still mirror society's Christian values and cultural foundations.

A concern with increasing religious plurality is thus explicitly outweighed by the argument in favour of an essentially Christian tradition and Christian burial customs. Furthermore, principled reasoning is outweighed by practical considerations. As the Ministry stated in 2007:

> The Ministry agrees that, from the perspective of equal treatment or neutrality, it naturally follows that churchyards (*kirkegårds*) that should be open to all, regardless of religious of life-stance affiliation, should also be administered by a public institution that has no connections to, or grounds itself in, any particular religion or life stance […]. In the opinion of the Ministry, the exercise of such principles should be seen in light of […] the fact that, annually, more than 90% of those who die receive a Christian burial or are buried according to Christian values (St.meld.no. 17: 2007–2008, p. 108–109, my translation).

This argument of tradition is somewhat thin. Indeed, the 1996 act continued the previous connection between parish and graveyard (both the ownership and supervisory relationship). Yet, regarding the administration, in fact it involved a break with the previous *formal* municipal responsibility. Furthermore, it was just as much a break in large municipalities (where the municipality was formally in charge) as it was a continuation of actual church involvement in small municipalities. As we pointed out in Section 3.3.3 , there has been much variation in different administrative responsibilities throughout history and throughout Norway.

In the next chapter, I propose some other reasons why the state decided to side with the church on this matter. For now, I conclude that the first set of arguments for the 1996 Funeral Act entailed a decision that cemeteries are and remain church territory. If we relate such an outcome back to our analytic categories, it confirms expectations based on 'establishment.' The hegemonic position of the Church of Norway is maintained (or made clearer) in this domain.

4.3 Conclusion: National Policy Patterns

This chapter investigated how France, The Netherlands, and Norway responded to the Islamic burial challenge on a national level and over time. And it looked at the responses to humanist burial needs in Norway. In light of the huge legal

and historical diversity discussed in the previous chapter, we were curious to see whether contemporary policy responses reveal similarly large differences, and, furthermore, whether these differences are in line with these countries' burial laws and the standard conceptions of state-organized religion relations as found in the previous chapter.

The general picture found is that of, indeed, significant differences regarding the national policy responses toward Muslims. In France, we encountered a good degree of political unease and discursive hostility toward *les carrés Musulman*. In The Netherlands and Norway, Muslim burial needs were rather smoothly incorporated into the existing burial regime. Yet, in Norway, humanists emerged as challengers.

Politically and discursively, these differences agree with the different social images and normative logics encountered in the burial laws and standard conceptions of the state-church frameworks of these countries. But we also noticed a sense of convergence in the actual provisions in place.

Specifically, for France, we found that the topic is symbolically charged, albeit at an everyday level. Perceived from a distance, the establishment of confessional sections breaks with the legal (laic) constraints in the public cemetery. For some they evoke the danger of *le communautarisme*, that is, the idea that a community defines the beliefs, opinions, and behaviours of an individual, thereby making individual freedom of conscience secondary to the group's ideology. This can explain social unease and, possibly, why there are so few *carrés* in existence. Why they exist nevertheless is much more a puzzle.

This chapter gave a partial answer: We observed over time an increasing political legitimization allowing for special sections (since 1975) and national initiatives on the part of Muslims themselves (workgroup on *le carré Musulman,* 1997–2003). The common political and discursive understanding of the French *carré* is not that of a full-fledged section, but as an "aggregation of individual graves according to confessional lines." In other words, it has been more or less entirely stripped of its collective dimensions.

What still requires explanation, however, is a set of 'historical exceptions' that occurred *before* the first directive (1975). The municipal case studies in the next chapter provide a discussion of three historical 'exceptions' (*Père-Lachaise, Bobigny, Thiais*). Furthermore, the question remains how adherence to *laïcité* can explain both the absence of confessional sections as well as their presence? I raise that question in a contemporary vignette of Parisian burial management and Montreuil.

The lack of any form of political objection to Islamic sections or whole cemeteries in The Netherlands agrees entirely with its burial legislation and inherent normative concerns (collective religious freedom and collective equality between groups). Attitudes toward Muslim sections there changed minimally over time. As early as the 1980s, debate occurred over burial without a coffin. And the 1991 burial law was adapted to remove all remaining obstacles to Islam and other religions.

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Yet, here the lack of *more* Muslim cemeteries remains a puzzle, complicating any notion of an Islamic pillar. In the Almere case study (Section 5.2.3), I investigate the conditions for the emergence of the first Islamic cemetery in 2007.

In Norway, the smooth accommodation of Muslim burial needs seems to correspond to the expectation of the establishment model. Much in line with what I. Furseth concludes regarding to the provisions for chaplains in prisons (2003), there is what I call a logic of 'compensatory evenhandedness.' The existing link between the Church of Norway and the management of the public graveyards leads to an explicit willingness to meet Muslim religious burial needs evenhandedly. Norway adapted remarkably fast in making special sections available, relative to its estimated Muslim population. One reason for this might also be that Pakistani Muslims simply more persistently and early on asked for burial in Norway, as opposed to Dutch or French Moroccan and Turkish Muslims.

For humanists, however, this logic plays out differently: Their demand for neutral ceremonial rooms has been met since 2006–2007 with a political promise to take care of minority needs, albeit without actually changing the laws. A trial project that provided means for the funding of neutral ceremonial rooms is witness to the political goodwill on the part of national politicians. The principled objection of the humanists is met with more scepticism (this becomes clearer in Chapter 5). The fact that the Church of Norway has been in charge of the cemetery management since 1996 can be seen as conforming with the expectation based on the 'establishment.' A first look at the state arguments would seem to confirm such a reading. However, in this case I argue that the model in fact explains the outcomes too well. In the next chapter, I address a second set of factors leading to the 1996 law.

Based on the findings of this chapter, I conclude that the Dutch and Norwegian burial and state-organized religion regimes best correspond to the challenge Muslim burial poses. Yet, by extending the analysis to another minority within Norway, I found that French Muslims fulfil a similar role as the Norwegian humanists[69]: Both groups challenge aspects of their countries' burial symbolic order, albeit in opposite directions. Furthermore, over time they are met with a similar response by the authorities, who seek to practically and informally accommodate the needs of minorities, albeit by leaving the laws intact. In the end, this is considered politically less costly, and it avoids challenging existing symbolic burial orders, both laic and Lutheran/Christian, respectively.

69 I allude to the title of an article by Zolberg/Woon (1999), "How Spanish Is Like Islam," which argues that Muslims in Europe evoke a similar conflict as Spanish-speakers in the United States.

Chapter 5: Embedded Case Studies: Institutional and Discursive Responses to Burial Needs

5.1 Introduction

The previous chapter investigated the relevant national policies and their historical idiosyncrasies. We discovered clear differences between the countries in their legal and national policy responses to Muslim and humanist burial needs. Yet, the analysis also showed that national differences became less clear when we include existing material provisions. This raised three puzzles for which we have found a partial answer in Chapter 4.

This chapter serves to further answer some of these questions. Furthermore, it describes what actually happens on a daily basis when local agents are confronted with situations of new diversity. I describe nine embedded cases where the processes that lead to burial outcomes and the relevant agents are involved. And I describe how burial professionals and the minorities involved make sense of existing legal regulations and national traditions in their choice for solutions. These local vignettes allow us to engage the general research questions of this project. And a more detailed analysis of the resulting patterns of policy outcomes is found in Chapters 6 and 7.

At this level of the embedded case study, however, I address the following field research questions: First, what are the relevant processes that produce burial outcomes and related actors/decision-makers? Because the institutionalization of religious or secular minorities is a two-way process (Bader: 2014, 1), I focus on both state actors as well as (non)confessional representatives. Second, what material solutions do the institutional decision-makers provide for? Third, and discursively, how do they (or the minorities in question) give meaning to these solutions chosen and how do they justify the solution? Fourth, how do they talk about and frame the issue at hand?

For reasons of readability, these data are summarized in two different ways. At the end of each country section, I provide detailed descriptions of local responses for each embedded case. And in the conclusion of this chapter, I summarize the findings in two tables, respectively.[1] All quotations from the interviews are my translation. I do not further specify this. I furthermore place all references to the

1 Table 5.5 summarizes the central decision-makers, initiators, and relevant Muslim/humanist or other interlocutors per municipality. Tables 5.2, 5.3, and 5.4 summarize (1) the type of solution (2) the reasons given for the solutions and or its format, and (3) the language used and the framing issues, respectively.

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interviews in footnotes to allow for a full description of the date and public function of the respondent.

To contextualize each embedded case (i.e., the processes leading to burial outcomes), I open each case study with a short description of the municipal context including information on the municipal population in terms of ethnic or religious diversity (if available). Where relevant, I also sketch the political situation and address the number of cemeteries, the municipal structures that govern the cemeteries, before addressing the relevant processes and actors involved.

5.2 Dutch Embedded Cases

5.2.1 Amsterdam: A Public Solution

The city of Amsterdam is culturally very diverse. More than half its population consists of first- or second-generation migrants.[2] Statistically speaking, one has a migrant status if the person itself or one (or both) of the parents was born abroad. The four largest standard migrant groups in The Netherlands are Surinamese, people stemming from the Antilles, and Moroccans and Turks. Originally, immigration stemmed primarily from the former Dutch colonies (Indonesia, Suriname, and the Antilles) and included guestworkers from Turkey and Morocco. Yet, the open borders in the European Union have now resulted in more migration from Middle and Eastern Europe. And the global economy has resulted in larger inflows of people from the United States, China, Brazil, and Russia. Furthermore, refugees from Iran, Iraq, Afghanistan, the former Yugoslavia, and most recently Syria have settled in Amsterdam. Other large migrant groups come from the Mediterranean countries and Anglo-Saxon countries.

Demographically, there are presently some 177 different nationalities in Amsterdam, making it one of the most international cities in the world. Historically, Amsterdam has always been a center of migration. In 1700, about 40% of its population had been born abroad. And the city owes large parts of its wealth to the influx of Protestants from Antwerp, the Huguenots from France, and the Jews from Portugal (cf. Entzinger: 2019, 174). Labor migrants from Turkey and Morocco settled in Amsterdam (and Rotterdam) in the 1960s–1970s. And with the independence of Suriname in 1975, many Surinamese migrated to Amsterdam in large numbers.

2 See https://www.cbs.nl/en-gb/background/2018/47/population [accessed 2 June 2020]. In January 2019, the Dutch population was 17,282,163 persons. The number of inhabitants in the Amsterdam region was a little over 1 million.

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Since the 1990s, a Muslim population of varying ethnic origin has also settled in Amsterdam, including political refugees or asylum-seekers from Bosnia, Somalia, Iran, and Afghanistan (Van de Donk/Jonkers/Kronjee/Plum: 2006, 114).

Since 2000, the municipality of Amsterdam has undertaken a range of initiatives to investigate the needs of its Muslim inhabitants regarding Islamic burial. Because of the growing number of Muslims in this city and the changes occurring in their future perspectives, the municipality explored their burial preferences and existing burial provisions.

Amsterdam has seven cemeteries, two of which are municipal (*De Nieuwe Noorderbegraafplaats* and the *Nieuwe Ooster*) and five of which are private cemeteries.[3] Surinamese and Indonesian Muslims as well as refugees from Islamic countries tend to be buried in The Netherlands, whereas repatriation rates among Turkish and Moroccan citizens are still very high (Dessing: 2001).

In 2004, the municipality set up an Advisory Council for Intercultural Management to figure out their wishes regarding death and burial. The respective project, entitled 'What Is Your Last Wish?' focused primarily on Turkish and Moroccan Muslims (Baba/Gustings: 2004). The report signaled an increasing need for Islamic burial spaces and the relevance of burial practices according to Islamic ritual. Muslims thought that burial in The Netherlands would make it easier for the family to maintain Islamic traditions, like visiting the grave after Friday prayer and on Islamic festive days. It also allowed for a much faster burial than when repatriated. Nevertheless, perceptions of the possibility for burial in The Netherlands were quite negative. According to the report, the reason lay in a lack of appropriate knowledge about the Dutch legal system.[4]

As a follow-up, the municipal board installed a Commission Islamic Burial in Amsterdam (CIBA),[5] which had the task of formulating a common plan of action. This included a variety of interest groups, representatives of the main Muslim groups[6] as well as the leadership of the municipal cemetery *De Nieuwe Ooster* (hereinafter DNO). The CIBA, furthermore, sought the support of a variety of

3 The five private cemeteries are *Buitenveldert, Vredenhof, Westergaarde begraafplaats en crematorium, Zorgvlied, Stichting St Barbara*. The *Nieuw Ooster* already had a special (albeit small) area for Muslims. The *Noorderbegraafplaats* has no Islamic provisions. There were initiatives to create a parcel in the Roman Catholic cemetery of the *Stichting St Barbara*, *Westgaarde* and *Zorgvlied*.

4 Respondents thought it would be more expensive and more complex to organize a Dutch Islamic burial than to repatriate. Second, they associated it with "illegal immigrants, people who do not have enough money for a burial in the country of origin and the burial of small children" (Baba/Gustings: 2004, 26, my translation). They also thought that burial according to Islamic law was problematic, since in particular the need for permanent grave-rest could not be honored.

5 For the description of this case, I rely in part on Harmsen (2007), Chapter 7.

6 This included the large Muslim umbrella organizations like *De Unie van Marrokkaanse Moskeen in Amsterdam en Omstreken* (UMMAO), *Milli Görüs Nederland* as well *Diyanet*.

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smaller Muslim communities.[7] Initially, the Surinamese-Pakistani organization *Stichting Welzijn Moslims* joined, but as mentioned below, a religious difference of opinion led it their exiting the commission.

The CIBA formulated three concrete goals: the creation of an Islamic section in DNO, providing information to the Muslim community (via Mosques, imams, etc.), and installing a 'Platform Islamic Burial,' which was to execute CIBA's plan of action.

The CIBA had two considerations in formulating this plan of action. Given the large diversity of Muslim groups in Amsterdam, it stated that:

> Each citizen who considers themselves a Muslim should be able to use the Islamic burial facility. No distinctions are made between the different forms of Islam or ethnicities. The individual choice of the deceased Muslim to be buried in the respective cemetery should be the leading consideration (Baba/Kuijer: 2005, 8, my translation).

Similar to the French reasoning, the commission thus maintained that allocation in the separate parcel should result from the individual choice of the person in question – *not* because of a proven membership in a religious community.

Here is where the conflict with the Surinamese-Pakistani organization *Stichting Welzijn Moslims* arose: The latter is of the opinion that only Sunni Muslims can be recognized as Muslim, so that the parcel should be accessible only to them. Or, if that is not possible, there should at least be some dividing line between different sections dedicated to the burial of Sunnis and Shia Muslims.

The CIBA, however, rejected this approach, which led to the foundation's dropping out. As one commission member of CIBA formulated it: "If we want to live and work together in this city as best as we can, then we do not start telling each what to do in matters of death" (quoted in Harmsen: 2007, 57, my translation). Or, as one central figure in the development of the plans expressed it:

> The municipality wished to construct a section in which all Muslims feel at home. So, we don't start thinking in factionalism [*hokjesgeest*], like 'Oh no, I do not want to lie next to that person' and 'I do not want to lie next to that person.' No, we want freedom and happiness [*vrijheid en blijheid*]. It will be a beautiful section with all kinds of provisions. And it should be accessible to all.[8]

7 These included *Stichting Fatima Al Zahra* (representative of Shia Muslims), and *Ahmadiya Lahore* (ULAMON).

8 Interview with the consultant of the national organization of cemeteries (*Landelijke Organisatie van Begraafplaatsen* hereinafter LOB), August 2012.

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The second point of consideration in formulating this plan of action was to find a solution to the requirement of permanent grave-rest. Here, the commission proposed a two-pronged effort that sought to negotiate the rules from both sides.

On the one hand, mosques and imams should provide their communities with information about the legal possibilities within the Dutch system. Although, concessions are never 'permanent,' one can – theoretically – extend the lease to a family grave to the point of infinity. Furthermore, Muslim leaders should inform their constituency of any Islamic jurisprudence that would allow a grave to be emptied after a certain amount of time; this is legitimate under the supervision of a spiritual leader.

The municipality and the municipal cemetery, on the other hand, should explore institutional options that could grant permanent grave-rest, the most self-evident being an Islamic cemetery owned and administered by CIBA. Yet, they noted: "This option currently seems difficult to realize, both in terms of obtaining the land as well as in light of the current financial and organizational strength of the Muslim community in Amsterdam" (Baba/Kuijer: 2005, 10, my translation).

Instead, it was decided that the DNO would create a large section for Muslims (7,000 m^2), with place for about 1600–2500 Muslim graves. It would provide for graves with an 'exclusive right' (*uitsluitend recht*) for a minimum of 20 and a maximum of 50 years, after which the term could be prolonged for another 10 years' time. But although this indeed provided a good solution to the requirement of permanent grave-rest, it still left the legal responsibility for renewing the lease to the individual lease-holder.

A second option therefore suggested using a legal construction through a foundation like *Stichting Grafrust*, which would provide for assurances to secure infinite renewal of the lease period. Yet, the cost of EUR 5,000 poses a serious financial hurdle for many Muslim families.

A third option therefore involved reburying the remains when the minimal grave-rest period is over, under the supervision of a religious leader.[9] All remains in that case would go to an Islamic 'bonefield' (*knekelveld*) free of charge.[10] In terms of the financial construction, the DNO would be responsible for the costs of the designing and constructing the parcel (estimated at roughly EUR 300,000). They would search for additional finances for the planned Islamic washing-facility.

9 This applies to the case of a common grave that has a minimal grave-rest of 10 years, after which the grave-rest period cannot be renewed.

10 *Knekelveld* means literally 'bonefield,' i.e., a place where any remaining bones are deposited. Another option was to have the remains deposited in a small box, which in turn could be buried in the same grave but at a deeper level (under the supervision of a mosque). Yet, this would be costlier.

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In 2006, the mayor and city council (hereinafter B&W) decided to cover the costs for a special washing area as part of the municipal budget (EUR 416,630). The Islamic community in turn would collect money among its own. The B&W motivated its decision as follows:

> In addition to the fact that the burial law [*de wet op lijkbezorging, Wlb*] justifies the creation of an appropriate Islamic burial space, supported by the Muslim community, this is also of considerable social relevance, in view of the desire to integrate the Muslim community in Amsterdam. The personal choice of a Muslim to be buried in The Netherlands is an expression of an orientation focused on our country. In other words, by cooperating with the umbrella organizations of Amsterdam mosques in the (co)financing of an Islamic burial area, and in conformity with the CIBA report, the municipality is giving a strong social signal that all inhabitants of Amsterdam with an Islamic belief or conviction are part of this city (Agenda punt A0, 14 februari 2006, p.3., my translation).

The B&W thus interpreted the Wlb as allowing direct financial support to an individual belief community, while underlining that no such hard financial obligation ensues. The Wlb merely states that municipalities should "collaborate and deliberate." Yet, as the B&W argued, "the law can be interpreted such that, as a municipality, you should cooperate to enable burials according to specific (Islamic) rules." Furthermore, the mayor and city council assumed the CIBA's phrasing of this Islamic washing facility as a "functional provision." The CIBA report of 2005 stated it as follows: "multifunctional space and washing facility" (Baba/Kuijer: 2005, 10).[11]

The board of the cemetery (DNO) had a slightly different interpretation of the Wlb, drawing the line between a washing area and a prayer area. They did not think that the municipality should facilitate all aspects of an Islamic burial. Meetings or common prayers can take place in the cemetery or in the prayer houses and should therefore not require municipal funding. Washing, however, is in fact directly necessary to the Islamic burial process and cannot be solved by other means.

In the end, they thus agreed, albeit for different reasons.

The construction and inauguration of the section were planned for 2008. But delays occurred in the process. First, because of rising prices for primary goods, the costs for actually building the multifunctional/washing room rose to EUR 550,000 instead of the earlier estimate of EUR 400,000.

Second, in their attempts to find additional financing, the DNO was confronted with changes in the council. The previous alderman, Ahmed Aboutaleb, had been a driving force behind the plans developed under CIBA and executed under PIPA.[12] Aboutaleb's successor, however, of Surinamese descent, was less interested.[13]

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11 "Een multifunctionele ruimte en wasgelegenheid," my translation.

12 Aboutaleb became later the first Muslim mayor in The Netherlands in Rotterdam.

13 I rely on the interview with the consultant of the LOB, 20 August 2012.

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Third, in 2010, the conservative-liberal political party (VVD) raised political objections,[14] claiming that this municipal financing of – in their words – "Islamic washing-house" (*Islamitische wasgelegenheid*) "rubs against" (*schuurt*) the principle of the separation of state and church" (Raadscommissie Verslag: 2010, 11).[15] The state, so their argument, should not engage in financing the content of religion in a constitutional state. How can this be justified, they asked, when – to their knowledge – no other religious community has received a similar provision covered by the public budget?

The answers by the mayor and other participants in the municipal board meeting were indicative of the underlying reasoning. A member of the Christian Democratic Party (CDA) suggested recourse to a principle of 'compensating neutrality' (*compenserende neutraliteit*). The washing-house/prayer room was being financed because the religious community was in a position of delay or disadvantage. But indeed, she added, the executive board B&W should have informed the Municipal Council of Directors (*Gemeente Raad*), since the latter should have made the decision, not the former.

The mayor added to this line of critique that the meaning of the terms 'inclusive' and 'compensatory neutrality' is not particularly clear (Raadscommissie Verslag: 2010, 14). According to him, the essence of Dutch church-state relations consisted of the fact that the government does not interfere with the content and doings of religion; no preferential treatment is allowed. In The Netherlands, we do not rely on exclusive neutrality as in France, he said, where the government stays out of all matters pertaining to religion. On the contrary, facilitating religion is part of the government responsibility. Consequently, there is a legal obligation in the Wlb to provide for a section if a religious community asks for it. Yet, this does not include a washing-house or a prayer room.

In other words, he agreed that the principle of separation was under pressure, and that the procedure has not been properly followed, but nevertheless concluded that the motivation behind the 2006 decision and public financing was 'integration.' On 5 June 2012, the alderman approved the Islamic section and the washing pavillion.

14 At this time, the construction of the section and washing room were already underway, and the financing of the additional EUR 150,000 had been approved by the B&W. Yet, the Executive Board still needed the approval of the Municipal Council of Directors (*Gemeente Raad*).

15 The minutes of the Municipal Council of Directors Meeting do not include literal transcripts, so I am paraphrasing the terminology used in these minutes. (My translation).

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5.2.2 The Hague: The Seven Gravefields of Westduin: 'To each their own spot'

The Hague is the political capital of The Netherlands. More than half of its population (54.7%) has a migrant status (January 2019); the largest groups are Turks, Moroccans, Surinamese, and people from the Antilles.[16] Different from Amsterdam but similar to Almere, the Surinamese form the largest migrant group. Together with Amsterdam and Rotterdam, The Hague is one of the Dutch cities with the highest number of Muslim inhabitants. The Hague is furthermore a city with a long history of Muslims migration from former colonial empires (Indonesia and Suriname).

There are two municipal cemeteries in The Hague, *Kerkhoflaan* and *Westduin*, and five private cemeteries.[17] The municipal cemeteries were 'made independent' (*verzelfstandigd*), meaning that a separate department (*afdeling begraafplaatsen*) governs the daily administration and finances of these cemeteries. The department is not supposed to turn a profit but does have to cover its costs independently. The mayor and the City Council (B&W) are nevertheless still relevant by setting the rules in collaboration with this department.[18] (On the distinction 'municipal independent,' see Section 3.1.2.)

The oldest municipal cemetery, constructed in 1830, is that on *Kerkhoflaan*, where the first Muslim section in The Netherlands was constructed beginning in 1930.[19] It was installed to bury the Muslims from Java who had arrived from the 'Dutch Indies' (i.e., Indonesia). These Muslims were largely retired persons, people on leave, or indigenous people who had worked as servants or helpers in the Dutch family households.

In 1930, The Hague counted some 12,000 Indonesia-born inhabitants. Most of these Muslims strictly maintained their beliefs and religious practices once in The Netherlands. In 1932, this led to the formation of an Islamic foundation Perkoempoelan-Islam, which had as its goal maintaining and respecting the Islamic laws as well as furthering the internal solidarity of the community. To this end, it required a prayer house as well as its own cemetery, so that Muslims could be buried "separately from those who think differently and as much as possible in accordance with the Islamic laws" (Hulsman/Hulsman: 2008, 89, my translation).[20]

16 https://denhaag.incijfers.nl/dashboard/Overzichten/Bevolking/ [accessed 2 June 2020].

17 These include *Begraafplaats Ter Navolging, Begraafplaats St. Petrus Banden, Begraafplaats Oud Eik en Duinen, Begraafplaats Crematorium Nieuw Eykenduynen, Begraafplaats St. Barbara.*

18 Interview with juridical burial advisor, 10 August 2012.

19 I rely on Hulsman/Hulsman (2008) for a description of the section in The Hague.

20 The quote is not well referenced but seems to have come from a magazine or news brochure: *De*

On 9 December 1932, the municipality provided for a parcel of 10 m^2, demarcating the area with bushes and making a separate entrance for this section. Beginning in the 1960s, the municipality also provided for a second section of similar dimensions. Currently, both sections are still intact on the municipal cemetery of *Kerkhoflaan*.

In the 1980s, because of the larger influx of labour migrants, the demand for more Islamic graves arose. Instead of further extending the *Kerkhoflaan* cemetery, the municipality chose the municipal cemetery of *Westduin* as the primary location for future burials. Whereas Muslims from Indonesia were – and still are – being buried on the Municipal cemetery of *Kerkhoflaan*, Surinamese Muslims and some Islamic asylum-seekers go to *Westduin*.

In 1994, the Municipal Board of The Hague decided to allocate seven gravefields (*grafakkers*) to seven different mosques on Westduin. Here, according to the head of Department of Cemeteries in The Hague, "to each mosque their own spot" [21] (*iedere moskee zijn eigen plekje*). Furthermore, it provided one field for Muslims who did not belong to any of these mosques.

In my conversation[22] with the head of the Department of Cemeteries, he explained that, at the time, the seven gravefields had been suggested because of remaining available space. They were not proposed in response to any initial demand from the Muslim community. "We thought it would be a niche in the market (*gat in de markt*)," [23] and that they could make some money. While the initial motivation for the parcels was thus rather commercial in nature, its formal justification in a letter of the municipality was based on a reading of Article 39 of the Wlb: "Regarding the stated Article 39 in the Wlb, the municipality considers itself obliged to provide church communities that do not have their own cemetery with a separate burial place" (RV54: 1994, my translation).

My respondent explained that Article 39 says "every church community" [*kerkgenootschap*]. If one takes that seriously, you cannot treat all Muslims like a single church community. This would be equivalent to saying all Christians go to one church and should thus be buried in one area. My respondent was not in favour of this legal obligation and would have preferred the lawgiver leaving

Indische Verlofganger, 4 November 1932, p. 241. *Vereeniging perkoempoelan-islam voor een eigen islamitische bedehuis en begraafplaats*.

21 Interview with the Director of Municipal Cemeteries, The Hague, 4 December 2008.

22 I rely here on a second interview (21 April 2009) with the head of Department of Cemeteries in The Hague and two municipal letters. Together with the mayor and the council (B&W), he is in charge of developing the regulations concerning the two municipal cemeteries.

23 Interview with the Director of Municipal Cemeteries, The Hague, 4 December 2008.

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it out. However, "there is not one Islam. If you take that literally, you have to accommodate the differences."

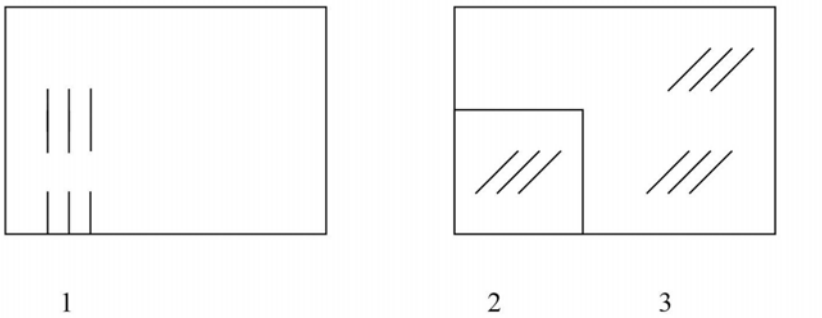
But he was not sure he would choose this solution again, not for principled reasons or because of any change in his opinion about how to give institutional form to religious diversity. Instead, it turned out that some of the gravefields had remained entirely empty while others had too little space. This compelled the municipality to reorganize matters several years ago (RIS143608: 2007). He talked to the imams of the different mosques to see if they could trade in some of their abundant space for those who had too little. There was some fear with the other policymakers that his visits might lead to conflict, but all the imams were very understanding and went along entirely with the suggestions.

In general, he explained that the individual mosques have large differences of opinions in how a proper Islamic burial should take place. But most things can be discussed and negotiated. In case of conflict, the imams told him that he should frame the demand as a governmental or municipal requirement. In that case, the imams said, they would be able to convince their people, as Muslims too must respect the laws of the land.

Because of this interpretation of the Wlb and the consequent willingness to allow for differentiation between religious factions, there are currently several types of sections in both municipal cemeteries.

Kerkhoflaan has three different forms of Muslim areas. First, the area with graves of the first immigrants (1930s–1960s), with graves that are not in the direction of Mecca. As the director explained, at the time the Muslims were probably not in a position to make such demands. Second, there are several recent 'common graves' in the direction of Mecca, for Muslim families without resources. The imam had asked for this, disregarding the demand for permanent grave-rest in that case. This area is so far still empty. Third, there are family graves with a grave-rest period of 30 years in the direction of Mecca (but with several bodies in one grave). Here's the institutional typography of the cemetery of *Kerkhoflaan*[24]:

24 This is entirely schematic and does not mirror the actual form or position of the sections.



1: Traditional graves not in the direction of Mecca (1930s-1960s)

2: 'Common graves' in the direction of Mecca for Muslims without money

3: Family graves in the direction of Mecca (but with several bodies in one grave)

Scheme 5.1: Institutional typography of the cemetery of *Kerkhoflaan*, The Hague

The second municipal cemetery, that of *Westduin*, has separate Muslim fields for the seven mosques.[25] In addition, three fields are reserved for Muslims who do not belong to any of the mosques, and a section for foetuses less than 26 weeks old. The latter area is not allocated to any mosque in particular, and no distinction was allowed between the different religious groups.

My respondent's reasoning again relied on the Wlb – or rather on the absence of any prescriptions on this matter: "I am very flexible in providing for this as it falls outside the scope of the Wlb. They cannot make demands on me in this case."[26] He also had no problem respecting the Islamic wish to have only one body in each grave, "but in that case they have to pay for two bodies," as the lease on each grave spot is foreseen for two persons.

"How have you dealt with the Sunni and Shia's differences?" I asked. "Oh, that was easy," he said. "We just put some high hedges in between. They do not have to be bothered who lies on the other side of the hedge."

There were no formal agreements between the municipality and the different mosques. One of the former imams had set himself on fire, and the archives went

25 Association Ahle Soennat Wal Jamaat Hanafie, field 28; Foundation Noeroel-Islam, field 29; Foundation Ahmadiyya Isha'at-i-Islam, field 30; Foundation Ahmadiyya Anjuman Isha'at Islam Nederland, field 31; Foundation Faizul-Islam Ahle Soennat Wa Jama'at Hanafie, fields 33, 34; Foundation Jammaat-al-Imaan field 35; Foundation Ahmadiyya Anjuman Isha'at-i-Islam Holland, field 36. Those who do not belong to any mosque are in fields 26, 27, 32.

26 In The Netherlands, foetuses of this age are considered as medical 'disposal,' whereas according to Islam, they should be buried; interview 4 December 2008.

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up with him. As a result, no written material is now available regarding agreements with mosques and their policies of admission. Typically, the imam came with a handwritten note, to allow for the burial of mosque members. So, the logic was that, if you do not have such a note, you cannot be buried there.

5.2.3 Almere: A Private Muslim Cemetery

The first Dutch Muslim cemetery, *Raza Ul Mawa*, was inaugurated in June 2007. It is the proud possession of *Stichting van Almeerse Moslims Al Raza* (hereinafter Al Raza). This Muslim foundation bought the land from the municipality and is entirely in charge of its management and admission policy.

Almere is a planned municipality in the province of Flevoland. As one of the youngest cities in The Netherlands (a municipality since 1984), it lies just a short distance from the capital. It has 212,965 inhabitants (May 2020[27]) and a demographic composition that includes Surinamese, Moroccans, Turks, and people from the Antilles. Together with the European immigrants, they make up a total of 40% of the overall population. Almere is particularly popular with the Surinamese. The development of a middle class among them led to an exodus from the big cities to smaller surrounding cities like Almere, where there is more room and affordable housing.

There are two cemeteries in Almere: the cemetery of Almere Stad and the cemetery in Almere Haven, both of which are municipal property but run and managed by private companies (Yarden and PC Hooft). This means they fall in the category of 'municipally delegated' (*gemeentelijk uitbesteed*) (see Section 3.1.2).

The Islamic cemetery borders the cemetery of Almere Stad but has its own entrance. It was originally meant to provide burial space only for Surinamese Sunni Muslims. But the high demand from Muslims all over the country and an open attitude of the owners resulted in currently providing access to all Sunni Muslims of different nationalities. The current cemetery provides for about 140–150 concessions but can be extended if they run out of grave space.

The process of obtaining permission for the cemetery has been largely smooth. The cemetery was realized over the course of 3 years as part of a project to build a mosque (which was inaugurated in 2010).[28] The municipality had been very helpful in this endeavor: Although it did not provide for any direct financial support for the cemetery, it did provide indirect support by selling the land at a low price. Furthermore, Al Raza managed to obtain a significant loan from the bank, which, I was told, was unusual. Banks are typically not comfortable lending money to

27 See https://www.almere.nl/over-almere/feiten-en-cijfers/ [accessed 2 June 2020].

28 http://www.alraza.nl/ [accessed 2 June 2020].

churches or religious communities. "We are very well organized, so they trust us," a board member said.[29]

The cemetery was financed in part by the mosque budget, the budget for the mosque being largely derived from membership donations of the members of Al Raza, a small group of mainly Surinamese Muslim inhabitants (about 300 families and individuals).

In 1999, they came together to brainstorm about the possibility of building a mosque. In 2000, they founded Al Raza and talked to the municipality about plans for a mosque. Initially, they had considered cooperating with two other Muslim groups in Almere, one of which was the *Stichting Welzijn Muslims* (the Pakistani Muslims who left the platform in CIBA). This group had, in this case as well, come with all kinds of demands. So, Al Raza decided to remain independent in order to "set our own rules" and not accept external money.

Obtaining permission from the municipality was unproblematic, yet tensions in the neighbourhood delayed the building of the mosque. Ever since the start of their foundation, they had been under attack from a neighbourhood organization, founded a few years after theirs, the members of which were wealthy and had bought villas there.

My respondent was unsure why they had tried to obstruct the program, suing them on many occasions. "Maybe they are afraid that their villas would diminish in value because of our mosque … The whole thing has cost us about 2.5 years." It also cost them a lot of money, not just because of the legal procedures: Al Raza ended up winning all of the legal battles, but the price of raw materials to build the mosque skyrocketed over the past years.

Four facts stand out in this successful case: First, securing permanent grave-rest is in fact possible, and much like the many existing Jewish graveyards, Muslims can thus – at least in principle – secure this themselves.[30] My interviewee did not think the current provisions on Dutch public cemeteries were sufficient. Islamic custom requires burial in the place of death but strictly prohibits cremation or transferring the remains of a body.[31] Second, the municipality was forthcoming in the process. Third, Al Raza seems very well organized. Finally, the financial burden of this cemetery was not large – in fact, as the municipal letters mention, they sold the land for EUR 7,701.15 (RV-63/2007).

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29 Interview with a Board Member of Al Raza, 18 March 2009.

30 The price for a concession is EUR 7,500 for members of the foundation and EUR 8,500 for non-members. This includes all ritual aspects of the burial. See https://www.ar-raza.com/begraafplaats [accessed 2 June 2020].

31 *Algemene graven* can only be prolonged twice, and sometimes the bones are then buried within a large container grave among non-Muslims. Or, he said, the remains are cremated. Interview Al Raza, 18 March 2009.

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"This is, of course, not how it ever goes elsewhere," remarked a Director of the public cemetery in Dordrecht in an email:

> Normally, there is no land available dedicated for burial purposes. One can make much more money renting it out to companies or using the land for normal domestic purposes.[32]

Very specific urban-planning circumstances in Almere, she added, had contributed to this opportunity to make the land available and at a modest price.

Her scepticism was somewhat founded because Al Raza had originally been promised to obtain a small Islamic cemetery within the cemetery of Almere Haven. The municipal document speaks of a 'cemetery' and not a 'section' (RV-62/2006).

When, in 2002, the cemetery of Almere Haven was nearly full, the municipal board allocated EUR 1 million to enlarge it, although, following an initial investigation of the soil, much larger quantities of sand were needed to enlarge the cemetery, adding costs of EUR 2.2 million. The municipality then decided to look for alternative solutions. Having already promised Al Raza an Islamic cemetery, the municipality instead proposed to dedicate a part of the cemetery of Almere Stad. Thus, Al Raza would benefit from the fact that the land there had already been declared a burial ground. The municipality justified its decision as follows:

> The foundation of Muslims in Almere (Al-Raza) has asked the municipality to provide for an Islamic cemetery. The Corpse Disposal Act obliges the municipality to cooperate in the realization of this request. And in its meeting of 29 June 2006, the board decided to allocate a part of the cemetery of Almere Stad (*Kruidenwijk*) as an Islamic cemetery (RV-62/2006, my translation).

In addition, they proposed selling the land below market price:

> – The deceased of the Islamic faith would obtain permanent grave-rest. By selling the land to Al-Raza, we can help to secure 'their feelings' that eternal peace is ensured.
> – The promises made in the past (…) need to be kept. Initially, it was foreseen that Al Raza would obtain a part of the cemetery in Almere Haven. Yet this option has now been abandoned because of the high cost to the municipality (…). The consequent delay is not their fault.
> – The land for the Jewish cemetery has also been sold. (…) Al Raza, (…) should be treated like the Jewish community before it (RV-63/2007, my translation).

32 Director of Begraafplaats en Crematorium Essenhof, 30 March 2009 (my translation).

5.2.4 Summary Dutch Municipalities

The cases discussed address the following primary field research questions: (1) What are the (materially) chosen institutional solutions? And (2) how do burial decision-makers (discursively) substantiate these burial solutions? What reasons are given for the existence of a particular format? (3) In what terms do they talk about and provide a framework to justify their choices? I summarize the relevant decision-makers in a table at the end of this chapter.

Field Research Question (1): What Are the Solutions Chosen?

By relying on a replication logic in the choice of our municipalities, it was my expectation that burial solutions in Amsterdam and The Hague would be similar. Both are large cities with a significant Muslim population.

The solutions envisaged in Amsterdam and The Hague were indeed both public, namely, confessional sections in a public cemetery. But they differed in how they understood these sections and in the degree of religious governance they allotted to the respective communities. There exist seven gravefields (*grafakkers*) in the public cemetery in The Hague, each allocated to a specific mosque. These are understood to underlie full self-governance.[33] Yet, the exact legal responsibility and form of that governance is unclear. The agreement was made in an ad-hoc and informal manner, so that no written sources are available. The Islamic section in *de Nieuwe Ooster* (Amsterdam) is open to all Muslims, and the cemetery management allocates the graves. A publicly financed washing-house borders the Islamic section. It is understood and legitimized as a "multifunctional provision."

The investigation of the unusual case of Almere taught us more about the conditions that turned this case into a success. The burial area provided is a piece of terrain privately owned, managed, and governed by a religious community (Al Raza). The public documents speak of an "Islamic cemetery" (and not a section *grafvak*). This is fully in line with the possibility of having Islamic cemeteries as prescribed in the Wlb.[34] Yet, the piece of land is a de-facto extension of the cemetery of Almere Stad (*Begraafplaats Beatrix-park*).[35] A Dutch legal burial expert describes it as a "confessional section"[36]; like the status of the confessional sections in The Hague, agreements are vague.

33 The respective religious leaders decide who is buried there and what form the section should have.

34 More precisely, it corresponds to the right to a confessional cemetery (Article 38) and the obligation of the municipality to sell the ground for a reasonable sum (Article 40.3).

35 The Jewish cemetery, inaugurated in 2005, is also located at the cemetery of Beatrix Park.

36 Whether they are full-fledged private cemeteries or confessional sections within a public graveyard depends on the agreements made. Yet, "The parties involved are often unable to say what exactly the agreement entails"; interview Juridisch Adviesbureau, 10 August 2012.

Field Research Question (2): What Are the Reasons Given?

In Almere, the reported municipal motivations for the solutions chosen were legal adherence to the burial law, acknowledgment of religious freedom, the need for eternal grave-rest, and equity between religious communities (treating Muslims on par with the Jewish residents). For the Muslims involved, self-governance, independence, and securing permanent grave-rest (as demanded by Islamic custom) are the main motivations for choosing this private solution. Financial and urban-planning considerations are central and explicit to the decision-making process for all parties involved. But finances need not be an obstacle for Muslims to obtaining their own cemetery. Crucial, however, are a high degree of organization on the part of Muslims and the need to be well informed. Admittedly, the Muslims here benefitted from the fact that their cemetery is an extension of an existing municipal cemetery (so that the plan of destination allocates that area for burial purposes).

In The Hague, a reference to the burial law (Wlb) is relevant, next to concerns with commercial exploitation (they hope to make money). The policymakers interpret the Wlb as prescribing the right to a confessional section for each *kerk-genootschap*. In their reasoning, this implies that you have to distinguish between the different Muslim groups and cannot treat them as one religious community; hence, the seven gravefields (*grafakkers*).

In contrast, in the Amsterdam case, Islam is treated as one *kerk-genootschap*. This municipal solution aims to avoid factionalism (*hokjesgeest*). A concern with state-church separation becomes visible in the discussion about the financial support for the washing-house/prayer/multifunctional room. But it is overruled by the concern with citizen/immigrant integration.

Field Research Question (3): What Are the Terms and Frameworks Used?

In none of the Dutch embedded case studies was secularism used as a term or a framework. Nor is there a proxy. When we asked explicitly about the way in which secularism affected their decisions and choice of solutions, the respondents became annoyed or uncomfortable (transcription in Section 7.5.2).

In Almere, the offer of a private Islamic cemetery by the municipality was cast as a legal obligation and a religious right. There is no explicit reference to Dutch state-church relations, though they do refer to general normative principles: The decision to sell below market price is motivated with reference to equity among the religious communities and historical precedent. But the offer of the cemetery is also framed as following from particular financial and urban-planning considerations.

Only in Amsterdam did the mayor make an explicit reference to "the core of Dutch state-church relations," justifying the financing of the washing facility as part of a concern with citizen integration (integration regime). Calling the Islamic washing-house a "multifunctional facility" emphasized that this was a facility for

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all, thus downplaying the extent to which the Islamic community was being done favours.

In The Hague, the relevant actors and documents mention general principles of governance: freedom of religious practice and equity between religious communities in light of the burial law. Cemeteries are also seen as an explicit commercial enterprise.

In sum, in terms of the main frameworks the Muslims demand for burial accommodation were in the Dutch context understood in light of the burial law, financial and urban planning concerns, but also to some extent that of integration and state-church relations.

5.3 Norwegian Embedded Cases

5.3.1 Støren: 'Soft' Sections and Individual Consecration

The village of Støren lies in the mountains among agricultural lands in the Northern part of Norway, half an hour's train ride from Trondheim. Støren is the largest of four villages (Soknedal, Singsås og Budal) that together form the municipality of Midtre Gauldal. The total number of inhabitants of all villages lies at around 6,000, half of whom lives in Støren. Being a train hub, the village of Støren was historically a place where workers come and go. The presence of industry and factories thus opened up the local community to an influx of foreign workers.[37] Initially, the train station provided work to a large pool of workers, and in the 1970s a big company specializing in prefabricated houses and roof constructions also attracted a lot of temporary workers here.[38]

Over the last decade, Støren's population has fluctuated because of a chicken factory (*Norsk Kylling*) operative since the mid-1990s which employs workers from Poland, Somalia, and Turkey. Furthermore, Støren is home to a small annual quota of refugees primarily from Somalia.

Since June 2012, *Norsk Kylling* is owned by the food chain REMA 1000. The factory was negatively featured in the news for its maltreatment of some of its labour force. In 2002, the labour unions alerted the police to the company's breaking of labour laws. After a range of investigations by the labour unions in 2003, 2005, 2006, and 2011, the unions still reported lingering problems in 2011.[39]

37 Interview with minister in Trondheim, previously a church minister in Støren, 17 October 2013.

38 The company was originally called *Block Watne Hus* and currently *Støren treindustri*.

39 The problems involved the duration of working hours, the lack of permanent contracts, the refusal to pay overtime, and the low level of unionized organization.

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Yet, despite the somewhat dubious standing of its factory and its (not entirely hospitable) employment policies[40], the village of Støren is positively described by one of its former church minister and dean of church[41] in Gaudal as a de-facto "multicultural society." The change in demographics is positively recognized as an integral part of the new composition of Midtre Gaudal. Thus, the municipal plan proudly states that one of its goals for 2020 is to "integrate labour migrants and refugees with an eye toward permanent settlement" (Municipal plan Midtre Gauldal 2008–2020, my translation). According to the present church warden of Støren, this change in self-definition has brought with it an increased sensitivity toward respecting the religious and cultural affiliation of others.

In my conversation with him,[42] he explained the plans to extend the graveyard, which lies around the church of Støren. (I use graveyard here because it actually surrounds the church.)

Since 1999, the graveyard in Støren has had a special section for 'other religions,' which is informally separate from the main part. This special section was originally intended for 'all other religious communities.' With a laugh my respondent explained it as a "common bag" (*felles sek*), explaining that allocation to this special part occurs using the distinction "consecrated earth and nonconsecrated earth." So, Catholics typically would be buried in the main (Christian) part of the graveyard, non-Christians in the special part. The previous church warden set up this section a long time ago, so that my respondent did not know the precise motivations.

Because this 'special' area remained unused and the rest of the graveyard was filling up, they decided to reorganize the whole graveyard. First of all, the plans for the new area intended to integrate the non-Christian part. Second, they aimed to extend the old cemetery by adding a whole new gravefield, which until recently was just a bordering piece of agricultural land owned by the neighbouring farmer.

The informal, hand-drawn plan he showed me indicated a field for the humanists, a field for urns, and a section for Muslims. The drawings showed what he called "normal mixed fields," where Christians and other religious people can lie together. The demarcation 'consecrated or nonconsecrated' was of crucial relevance, also for the development of the new plans. They took the recommendations in the new 2012 funeral law very seriously. The whole new section of the graveyard would not be consecrated, only individual graves.

My respondent thought this was a good solution: Christians can still have it the way they want it, without disrespecting others:

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40 Also, Adecco, the temp agency with whom *Norsk kylling* closely cooperates, is held responsible. http://www.nationen.no/2012/06/10/naring/norsk_kylling/kylling/kyllingslakteri/rema/7488022/ [accessed 2 June 2020].

41 Interview Støren, 17 October 2013.

42 Interview with the church warden Støren, 18 October 2013.

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> We've taken care of our own needs by consecrating a Christian grave. At the same time, we're allowing for possibilities for others who do not think Christian consecration is so alright, so that we do not exclude them from the same area.

"But," I asked, "could you also makes sections, some of which would be consecrated and others not?" I referred to the old solution found in Para. 5 of the former funeral law.

My respondent was not opposed to the idea of some sections being altogether (as his hand-drawn plan had also showed); but he feared that consecrating too large areas might work exclusively. Rather, there should be a balance between allowing for some small demarcations ("some bushes") but without creating separate islands in the cemetery. So, for example, "putting the Muslims at the far end of the cemetery" was not a good way of providing for sections. And here he shifted the conversation from consecrating parts of the graveyard to accommodating Muslims.

He told me that, thus far, no Muslim had been buried in Støren. There was no demand whatsoever on their part. My respondent was a little frustrated over their lack of interest. In accordance with Para. 23 in the 2012 Funeral Act, just a few weeks before my visit to Støren the Joint Parish Council had invited 11 religious groups and the humanists to a common meeting to discuss the new plans. An invitation letter had been sent to the Muslim society in Trondheim and a neighbouring Shia mosque. But only a representative of the humanists came, who rejected the need for a special humanist section as drawn on the provisional plan and preferred the solution of individual consecration.

I had asked in a separate interview with this humanist representative, whether he thought consecration mattered to the humanists.[43] He told me, "No, but the priests came up with this suggestion."

So, I inquired, if consecration does not matter, then why do you prefer that option? He answered that it was ultimately a concern with "dignity and respect. (…) I see it from their side. I find it unworthy toward the Christians, to say this consecration thing is nonsense. That lacks respect for them." This also allows for a good solution, he thought, for those who take offense at being put in consecrated earth.

In other words, the opinions seemed to differ within the humanist organization. The real issue, however, he continued, is that the church is trying to maintain its grip on society by monopolizing death. It was not respectful that a hegemonic church obtain the administrative responsibility of graveyards, of "something we would typically call a public duty. (…) This is not a solution that befits a multicultural society. Furthermore, there is a lack of sufficient neutral ceremonial rooms."

43 Interview with the Burial Representative and Ceremonial Leader HEF, Trondheim, 17 October 2013.

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I asked if he thought that the HEF still had a battle to fight on the principled point, but he was very sceptical about such an agenda. In his opinion, the more constructive solution would be to provide for alternatives: "We should have something to offer to those who have no relationship with the church." In his opinion, cemeteries were a last corner of society where the church still held a stronghold. "They try to maintain as much grip on it as they can." The number of Norwegians who choose a humanist confirmation, for example, is much higher than those choosing a humanist burial. He explained that, as the result of a generational shift and a lack of information, people do not always know about the humanist burial alternative. "At the moment of death, you don't start investigating your options. You chose what lies in front of you."

Returning to the conversation with the church warden of Støren, my respondent regretted the absence of any Muslim representative. He would have liked to ask them whether they preferred vegetation around their section or whether they would prefer just "blending in."

"So why," I asked, "do you make all these efforts if Muslims do not ask for it?" He answered that it was important to think ahead: "Those who are foreigners" – he paused to look for the correct word – 'immigrant,' 'non-Norwegians,' 'of a different culture'? – "right now, they are sending their dead back home. But in a next generation, they may want to be integrated here, that's just the natural development. So, we have to be prepared, and they should feel just at home as we do. We don't want to get caught saying one day: 'Oh, no, we never thought about that.'"

> We [the Joint Parish Council] have a social role to play. We take care of all burials, religious or not, and we would like to continue with that. (…) We have developed great competence, and we score high on user evaluations, also among other religious communities.

He also told me that the bishop had visited Støren and emphasized the need for the Joint Parish Council to take its public role seriously, as it operates both as a confessional and a public entity. "We have the task of meeting others and extending respect for their life-stance perspectives. For me personally this is very important."

He mentioned that, in other rural areas, the church warden might not always be willing to provide for Islamic sections. It depended greatly on the individual in charge. But he had traveled a lot, studied in England and lived abroad. So, for him it was self-evident that you accommodate newcomers. And precisely because he was a representative of a specific religious community (and a public servant), he felt an obligation to respect the religious needs of others – where 'respect' for him meant finding a balance between providing for some form of divisions and retaining wholeness (*helhet*). He did not wish for the "absence of divisions, all unified under the soil" (like in Elverum), but he did not want too strong divisions, either.

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> There will always be some demarcations, but still our goal is to see the graveyard as a whole. (…) To put it plainly: people are people. (…) We tend to our traditions, but nevertheless there should be an integrated solution.

His wish for *helhet* (wholeness) has its roots in the ideology of the labor movements of the 1920s, he said. To his mind, social democracy did not necessarily imply avoiding all division: "To achieve wholeness (*helhet*), we do not all have to be the same."

5.3.2 Elverum: Individual Consecration as a Solution

Elverum is a small but strongly growing municipality with about 21,000 inhabitants.[44] It obtained the status of city in 1996, and today it is one of the main municipalities around Norway's largest lake, the Mjøsa region. Rural in character, it lies on the far outskirts of the Oslo region. In 2007, it counted 1,128 inhabitants of foreign origin or Norwegian born but with one or two foreign-born parents (ca. 5% of the total population). This number is twice as high as it was in 1995.

Elverum refers to itself as a "multicultural" as well as an "international" municipality, largely because of the migrants who arrived in Elverum in the 1980s (Elverum kommune: 2008, 8 and 11). Since the first Vietnamese boat refugees, Elverum has "circa 85% more refugees than the average Norwegian municipality" (Elverum kommune: 1996, 57, referenced in Elverum kommune: 2008, 11). While the first refugees initially came from Vietnam, after 1988 they tended to come from Iran or Chili, and from 1991 on from Somalia. In addition, in 1993 there was a wave of refugees from Bosnia. In 1995, there were a total of 313 refugees in Elverum, including persons from Afghanistan, Burundi, Congo, and Chechenia (Elverum kommune: 1996, 49).

The growing immigrant and refugee population gave rise to a variety of municipal reports on the status of refugees[45] and the development of a "holistic integration plan" aiming for "inclusion and pluralistic integration" (Elverum kommune: 2008, 5–6). This report says nothing about cemeteries and burial needs, but it does emphasize the general need for adaptations. Quoting from a text from the Department of Foreigners, the authors underscore that:

> Norwegian integration politics has as its goal that everyone has similar possibilities, rights, and duties, regardless of their ethnic, cultural, religious, or linguistic background. To

44 Over the last 30 years, Elverum has grown more rapidly than its neighboring municipalities and on average more than municipalities in the entire country, see https://www.ssb.no/kommunefakta/elverum [accessed 2 June 2020] and 'Elverum mot 2030', p. 2.1.

45 These include Elverum kommune: 1996; Elverum kommune: 1997.

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> achieve this goal, it is necessary not only that immigrants and refugees learn Norwegian, accommodate themselves in the Norwegian societal context and qualify themselves for the Norwegian labour market. Rather, integration is a two-way process that also puts demands on the majority society to adapt and change. This entails, among other things, that public services be adapted and made available for different user groups so that equal offers are guaranteed for all (…) (UDI: 2005, 3, referenced in Elverum kommune: 2008, 5–6, my translation).

But what does "equal offer" entail – and to what degree does this requires special adaptations?

Currently, there is only one churchyard, next to the Elverum church, in which two Muslims have been buried. They lie among all others, in no special direction. The few other Muslims who have passed away in this municipality were repatriated or buried in Oslo.[46] But the growing immigrant population will likely produce the need for burial provisions that match the demographic composition.

This is well recognized by one of the spokesmen of the Joint Parish Council and dean and church minister[47], who in a local newspaper article explains: "We as Christians do not have a monopoly over [funeral] rituals" (Søberg: 2009). For that reason, the minister plans to tear down the existing old chapel located next to the church building and replace it with a new ceremonial room. Yet he is dismissive of establishing confessional sections or alternative cemeteries.

In my interview with him on 23 July 2009, I asked him what kind of solutions he could envision for Muslims and humanists. His response begins along a general vein:

> We should remember that the churchyard [*kirkegård*] is also a graveyard [*gravplass*] for all, but one that the Joint Parish Council administers. This is largely unproblematic. The Norwegian Islamic Council does not have a problem with this. They are very satisfied.

"Why do you think that is?" I ask. "They trust us," he says. "In Islamic circles they are more sceptical toward secular organs than toward religious ones. In Norway, we maintain a very good dialogue between the Church of Norway and the Muslim population."

"Is that because you are both religious groups?" I ask. "Yes" he says. I think you see the same thing going on in the realm of education. There, we have a similar situation, where there has been a long tradition of Christianity being present in the educational system, which is largely unproblematic for Muslims."

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46 This was the case at the time of my second conversation in 2009.

47 He was minister of the church (*sogneprest*) in Elverum and dean of church (*prost*, i Sør Østerdal prosti).

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I inquire further: "Does that understanding also work the other way around? Is the Joint Parish Council inclined to accommodate Muslim burial needs, because you share this (…) importance of religious rituals?"

> Yes, you are absolutely right (…). If I can be even more specific, it is a historical matter. (…) Precisely because we have a state church, the state and the church are both very concerned with securing the equal rights of minorities. And so, if we did not have a state church system, this would be left to a much larger degree to the groups themselves, and that could easily lead to forms of competition and opposition. But now, where we have a state church system and a constitutional state behind it, it follows automatically that both state and church have to make every effort to ensure that minorities do not suffer any form of injustice. (…). For this reason, we also have such fabulous economic regulation in Norway.

So, rather than seeing it as a disadvantage, the church minister is adamant about how the historical state-church legacy works to the benefit of minorities.

"But," I ask him, "what about humanists? I have heard complaints from humanists about the fact that a church is in charge of a public domain."[48] To which he responds:

> That is because the HEF is a form of protest movement. These are people who, for individual reasons, are provoked by the majority system of the state church. They have formed a protest movement, and they are very outspoken on all questions where the rights of the individual are threatened by the decisions of the majority. That holds in particular for the question about schools and the administration of the churchyards (*kirkegård*). (…) The Muslims say, 'Ok we get good treatment and a good understanding for our religious symbols.' But the humanists say [*angry and annoyed tone*] 'We do not want anything to do with a church authority!'

"And, do you agree?" I ask.

> Well, then, let me be even more practical: How do we solve this in the cemetery (*gravplass*)? As long as we had only a Lutheran Church to which everyone belonged, the tradition was clearly to consecrate every churchyard. There was a religious ceremony that consecrated the whole churchyard (*kirkegård*) for religious purposes. And then the humanists protested: 'No, we do not want this.' We understand, (…) but today, because of the humanists – but even more so because of other religious communities – we should stop consecrating the whole churchyard (*kirkegård*). Instead we should consecrate only grave by grave and make consecration part of each individual burial ceremony.

In other words, this church minister does not think the humanist protest is justified. In his answer, he moves from talking about church involvement in the administration of the cemetery to that of individual consecration of the grave:

48 I heard these complaints in an interview with a Senior Advisor in the HEF, 22 October 2008.

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> But perhaps we can also find another solution, something partly done in Oslo. There, the Joint Parish Council has set off an area and said: '*Here* is where we bury the Muslims, *here* is where we bury the humanists, and *here* an area we do not consecrate at all.' This way different groups can have their own section. If Muslims were to completely argue that this is important for them, namely, to be buried as a collective, then probably the political environment would listen up to them and take their needs into consideration.

"So, you do not like it, but you think they would consider that?" I ask.

> Yes, exactly, I think so. They will take the Muslims' own opinions into consideration. But I think we at least need both solutions. Humanists do not want to be buried together with Muslims, and I think it is unrealistic to set aside an area for Muslims, an area for humanists, and an area for Christians.

"Why," I ask, "is that being unrealistic?"

> Because there are so few of them. That makes sense only in the large cities.

He is clearly not in favour of this strategy:

> I believe it will strengthen integration in society if we could instead have a common churchyard (*kirkegård*) where the graves are all mixed up [*laughs*]. If we segregate in the churchyard (*kirkegård*), then that is a major statement of the idea that 'No … we are different, we are not the same.' Despite all attempts at integration and integration politics, we are nevertheless different, and when we die, we all need our own churchyard (*kirkegård*).

Two things stand out from this conversation: (1) This church minister is focused on the issue of individual consecration as a solution. (I return to this further below.) (2) He is not in favour of confessional sections but rather believes this solution is viable only for larger cities with a sufficient number of Muslims or humanists. Moreover, he sees sections as conflicting with his understanding of integration politics, being a "major statement of the idea that 'No … we are different, we are not the same.'" And he adds that the Joint Parish Council as well as people in most rural areas agree with him.

In the course of the conversation, I try to understand what the connection is between a rural society and the desire not to install divisions. "Do people at a local level feel that you should be like one Christian community?" I ask. "No, that puts it too strongly," he answers. "But that does point in the right direction." Distinguishing between religion in society as entailing a meaning component as well as a belongingness component, he explains: "The belongingness component will always be more developed in the rural areas."

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He continues: "Collective religious rituals are important in small communities. It is not so much that they feel like Christians, but there is a sense of belonging to the church and the churchyard (*kirkegård*)." He thinks the fact that there are various sections in the Oslo cemetery is a matter of pragmatism: "*Det er helt rent praktisk.*" Yet, the experience gathered in Oslo has shown that such cemeteries often invite acts of vandalism. Moreover, he repeats, things are different in rural areas:

> It is not good for a local community to have a churchyard (*kirkegård*) for Christians, one for Muslims, one for Jews, and so on. If we segregate in death, does that mean we should be segregated in life in a local community?[49]

In other words, he makes the empirical claim that there is a stronger sense of belongingness to the church and to the churchyard in rural areas. He connects this thought to a prescriptive claim that we should avoid demarcated areas, which only attest to segregation.[50]

But how are these two ideas related? In order for a local community to stick together, does it truly require a sense of homogeneity? What about this connection of the local community to the graveyard standing in the way of divisions in the graveyard?

The theme of consecration also raises some questions. Why does the minister suddenly start to talk about individual consecration when the humanists are criticizing the very fact that one confession is in charge of a public domain? He thinks humanists need not be frustrated, and if they should nevertheless choose to be so, this is because they are a "protest movement." "Humanists fight for nonreligious human rights, so they are political actors rather than life-stance actors."

In my interview with the church employers' organization (KA),[51] the representative answered similarly. He also automatically jumped to the example of consecrating the soil when I asked him how to secure equality in the cemetery in light of a hegemonic Church. "Going the French way" and eradicating all religious imprints from the public graveyard, he thought, would be "catastrophic for Norway" – it would "eradicate its historical roots" and "favour the secularist."[52]

Like the church minister, he also dismissed providing for separate sections. He was "not in favour of a patchwork strategy: We should not segregate minorities in the churchyard (*kirkegård*)."[53] He also fiercely rejected my suggestion to provide

49 Quote from private email correspondence September 2013.

50 This is akin to the French respondent who compared confessional sections with ghettos.

51 KA stands for *Kirkelig arbeidsgiver og interesseorganisasjon*.

52 He did not agree with the humanists that the church administration favours the Lutheran constituency.

53 Interview KA, 23 October 2008. He referred to a *lappeteppe strategi*.

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for a private cemetery next to the Lutheran one (like in The Netherlands): "Norway does not like privatization. We should all be buried next to each other in the same soil." Hence, he, too, prefers solutions of individual consecration.

Returning to my conversation with the minister of Elverum, I asked: "How is individually consecrating the graveyard a good answer to a principled and symbolic inequality claim that one confession is in charge of a public domain? Humanists do not care about consecration: To them, soil is soil." But he stands by his answer.

> I think they care about it in the way you say: They are protesting against the symbolic meaning. Soil is soil, but they do not like the religious symbol of consecrated soil. I think that humanists, and I know this because I have a good dialogue with the humanists here, are very satisfied with the proposal to consecrate grave by grave. Humanists do not want to be buried in an Islamic area because there you get the Islamic traditions and symbols, and humanists cannot have their own graveyards everywhere. From a purely practical point of view, they are buried among all others and in between Christians in a place that has traditionally been a Christian churchyard. And so, humanists are satisfied. (…) Ok, we have to adapt to that situation. (…) It is the best solution to consecrate each grave individually.

He makes three points here: (1) Humanists do care about consecration. (2) Rather than contesting the hegemonic position of the church of Norway, humanists realize that they are better off "adapting to the situation." (3) He simply reiterates the argument that humanists can be accommodated within his framework. For him, it remains an issue of consecrating the cemetery.

"Ok," I answered, "I understand that theoretically humanists can be accommodated within your framework. But where does this importance of consecration come from? Is that a Lutheran thing?"

The church minister is unsure. He considers it a "cultural tradition, (…) a fight against the underground spirits."

> You know, in the old Nørrone culture, consecrating the earth was very important. The soil should be freed from the grip of the forces beneath it. It is old mythology, we do not believe it anymore, (…) but it is still present.

He gives the example of the burial ritual:

> The priest puts a pole in the earth to consecrate the soil with the cross. Don't you know the Norwegian fairy-tales about the troll? [*He makes a threatening gesture*] It smells like Christian blood here! *Her lukter det kristenmansblod!* Christianization is an antidote to the evil forces.

Another example stems from the old agricultural system. In earlier times, he tells me, shepherds had houses in the mountain where the cattle grazed during the

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summer. These farms (*sæter*) were uninhabited in the Fall and Winter and were taken over by the underground spirits (*underjordiske krefter*). In the Spring, when the humans returned, the spirits had to be asked to leave. Similarly, the graveyard has to be Christianized, consecrated, and protected, he suggests.

In summary, the church minister is unsure where the importance of consecration actually comes from.

5.3.3 Oslo: Public Solutions and Negotiations in Practice

Oslo has three areas for Islamic burials. The first Muslim section dates from the early 1970s in the *Gamlebyen* cemetery, where about 380 Muslims have since been buried. A second section was opened in 1998 in *Klemetsrud*, with about 375 places available and a prayer room. Both sections are currently considered full. A third was opened in November 2004 in *Høybråten*, where we find Norway's first (state-sponsored) Islamic ceremonial room where Muslims can pray and wash their hands and feet. There are currently no new projects underway as the section in *Høybråten* presently provides enough space for the Muslim population in Oslo. It is nevertheless possible to get an insight into the nature of negotiations over this last section from June 2002 as they took place.

In her dissertation, the Norwegian anthropologist C.A. Døving provides an interesting discussion from a meeting on the construction of an Islamic parcel on *Høybråten kirkegård*.[54] Present at the meeting were the Director of the Graveyard and Burial Agency, the city of Oslo (*Gravferdsetaten I Oslo*),[55] the Director of the *Klemetsrud* Cemetery, the leader of the Islamic Council (IRN), a landscape architect, and the imam from the Islamic Cultural Centre (present as a specialist in sharia). They discussed the intended form of the Islamic section.

In a conversation between the Director of Oslo's *Gravferdsetaten* and the imam, the former wanted to know whether stillborn children could be buried in an anonymous memorial grave. Currently at *Klemetsrud*, the Director said, they have their own space (as is custom in Pakistan). Yet, this takes up a lot of space. The imam answered that an anonymous grave is possible since a stillborn has no name yet and would thus not contradict sharia. But then the imam asked: "Why don't you divide up the space of one adult grave into two child graves?" The Director answered that the *Gravferdsetaten* would have to alter the regulations for this, as currently all graves are required to have the same size and dimensions.

54 I rely here entirely on Døving (2005, 114–117), in particular Chapter 5.

55 This is the executive body concerning everything surrounding burials and graveyards in Oslo, see Section 4.2.3.1. Since 1977, it has de-facto administrative responsibility over the graveyards.

On the matter of spatial concerns, the Director inquired further whether it would be possible to bury a man and his wife above one another in one grave, as is customary in Norway. This is more complex, said the leader of IRN and the imam, because in Islam one cannot bury several individuals in one grave. They suggested asking for advice on this matter during a fatwa conference in Paris.

The leader of IRN asked whether it was possible to make a clear demarcation around the Islamic section, for example, in the form of a fence. The architect said that would not be a problem. The Director of *Klemetsrud* did not object to a fence around the Islamic section, but in her cemetery, the Muslims had already started to make small demarcations around individual graves, which obstructs mowing the grass. So, she preferred to avoid any form of demarcation around individual graves. The imam stated that he had no problem forbidding this practice to his constituency, yet he did want to point to the Norwegian state as a sort of backup (similar to the Muslims in The Hague). They decided to collaborate on the matter and to write an information paper for the Muslim community in which the *Gravferdsetaten* explained its rules.

The last point discussed was the municipal working hours. The leader of IRN brought up the problems surrounding burials on Friday. The requirement to perform the final burial prayer *after* the Friday prayer conflicted with the closing time of the cemetery. The Director of *Gravferdsetaten* Oslo agreed to adapt the openings times to the Friday prayer. Alternatively, the leader of IRN suggested that a prayer building in the cemetery might solve the time problems. This then became reality in 2004.

What I want to highlight with Døving's case description is how rules have to be adapted – or even newly invented (as in Amsterdam) – on both sides.

On the part of the Muslims, religious interpretations of sharia law are authoritative. The outcome of the European fatwa meeting produced a new fatwa allowing for the burial of man and his wife in the same grave, provided there is a certain amount of earth between the two. In order to claim authority, Muslim leaders distinguish between Islam *proper* and culture/tradition where religious justifications overrule cultural ones.

On the Norwegian side, the existing burial law and local regulations are definitive – and yet *Gravferdsetaten* Oslo adapted the openings times of the cemetery to fit the Friday prayer practice. However, regarding an individual grave for the stillborn or some sort of demarcation around individual graves, regulations were not altered. This was dictated by a lack of sufficient space and a pragmatic concern with mowing the grass.

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5.3.4 Solving the Humanist Puzzle and Adaptation of the 1996 Funeral Act

Regarding the final case study of Norway, I would like to discuss the background for the adoption of the 1996 Funeral Act. This does not concern the politics or processes within any one specific municipality, but rather speaks to the fundamental municipal dimensions of Norwegian state-church politics and the ramifications for my conceptualization of the Norwegian model.

To summarize, in Chapters 3 and 4 I already gave parts of the answer why the 1996 Funeral Act was adopted. In Chapter 3, I showed how the administrative responsibility for the cemeteries was historically spread out over both confessional and municipal institutions (Section 3.3.3). There was furthermore variation over time in the legal framework and within Norway between villages and cities.

With this fact in mind, in Chapter 4 I judged the argumentation of the Norwegian state for the 1996 Funeral Act to be somewhat thin. The state defined cemeteries as the domain of the church and backed this up with arguments of Christian burial customs and administrative traditions, although this argument of tradition ignores the de-facto variation on this point.

My guess is that there must have been other reasons, too, one of which, as I present here, is at least partially a political one entailing the decision to assign the cemeteries to the local church as part of the tasks of the Joint Parish Council. This occurred with the aim of enabling a larger process of disestablishment and as a way of securing the Joint Parish Council as a relevant local player vis-à-vis the municipality.

In order to see this, we have to look at the processes that led up to the formulation of the 1996 Church Act.[56] An important goal of this Church Act was to give the local church more administrative and juridical independence vis-à-vis the municipality. The reforms – of which the Funeral Act was only a part – aimed to clear up some of the intertwinement that had arisen in the 1800s when the local church administration developed as part of the municipal administration.

The NOU 1989: 7, p. 5 states the following:

> Conscious of the particularity of the Church of Norway as one religious community among several, and in light of an increasing secularization process and diminishing homogeneous culture, it has become more problematic to see municipal representational bodies as representatives of the local church.

As a later public document by a national advisory committee specifies:

56 I rely here in my discussion on Breemer: 2014, 188–190.

> The Joint Parish Council shall have extensive administrative responsibility, particularly for financial and legal issues pertaining to persons active in public services, which today formally lie with the municipality. The Joint Parish Council shall bear the employer responsibility for most of the church positions. Church employees, who today are municipal employees, shall hereinafter no longer stand in a direct employee relationship to the municipality but to a purely church organ. The municipal steering committee shall no longer be seen as part of the local church steering committee and shall have a more delineated voice within the church administrative realm (Innst.O.no.46: 1995–1996, p. 2, my translation).

However, the advisory committee thought, this increasing church independence should not lead to a cutting of the ties between church and local community. On the contrary, it should lead to its strengthening "as a center of faith, culture, and everyday issues" (ibid., 3). By strengthening the local church's representation in elected bodies, like the Parish Council and Joint Parish Council, and by drawing on a broad constituency, the Church would enhance a process of democratization. "This way the Church can create identity in the people" (ibid., 3).

> The Church of Norway shall have considerable administrative independence, although the majority of the committee is of the opinion that the popular church within the framework of the state church should be closely connected to the local community. The practical arrangements between municipality and church are important to convey the church as inclusive. The popular church depends for its well-being on the municipality recognizing this responsibility (ibid., 3, my translation).

Two things stand out in the above quotations: First, there is a general process going on that seeks to strengthen the Joint Parish Council as a relevant local player vis-à-vis the municipality. In that light, the maintenance and administration of cemeteries fulfilled an important role by giving substance to the set of tasks of the Joint Parish Council.[57] It also provided a critical mass of tasks to legitimize it. Second, it seems such strengthening of the local church structures was also theologically (rather than purely politically) motivated by aligning with a conception of the church as open, independent, and close to the people.

But, regardless of the mixture of motives,[58] we have here in a nutshell all the ingredients for the contradictory Norwegian situation.

Relating the analysis back to my proposed analytic categories allows us to observe the continuing relevance of the Church of Norway and its enduring intertwinement with public institutions (in this case, the public cemetery – 'establishment') as

57 I base this argument on an interview with the Former Director General of the Department of Ecclesiastical Affairs, 1 November 2012. See also Alsvik (1995, 111) for a similar argument.

58 We can note a mixture of motives: the argument of tradition and the political and possible theological reasons for empowering a local church.

well as increasing the independence and separation of the local church from the municipality within the state church framework ('disestablishment').[59]

Specific to the Norwegian situation and to the adaptation of the 1996 Funeral Act law is the understanding of the Church of Norway as a 'low church' (Thorkildsen: 2014, 85–87). The representation/administration of the church is deeply intertwined with that of the municipality. In Norway, as in Denmark – but unlike Sweden – this intertwinement is very strong at the local level.[60]

The reasons for this go all the way back to the introduction of Lutheranism by King Christian III after the Reformation. Rather than appoint state representatives in a top-down manner, the king enforced his power by giving local representatives an additional state – and thus church – function. As we saw in Section 3.3.3, the church warden was drawn into the moral project of the state and church. There are also examples of an opposite movement of intertwinement, such as the introduction of the Alderman Act of 1837, where the church minister very often became the leader of the new municipal board.[61]

This intertwinement might help explain why, after 1996 and despite recurrent national advice on municipal responsibility, the church administration has stayed in place.

The recently failed trial offer of financial support for establishing neutral ceremonial rooms may be due to a similar dynamic (Section 4.2.3.1). It is not the result of any national political ill will or a lack of interest in the population; rather, at the municipal level, (a) church and public institutions have historically been intertwined; (b) the church has retained its influence, and local politicians do not dare (or care) to take up this issue, for fear of losing votes and/or destabilizing the symbolic order; (c) theologically, there might be support from both *Grundvigians* and pietist groups to give the church a solid role in the local structures of governance.[62]

5.3.5 Summary Norwegian Municipalities

Field Research Question: (1) What Institutional Solutions Are Chosen?

In Oslo, since 1977, the municipal agency supervising graveyards and burials (*Gravferdsetaten*), has had the practical responsibility over these matters. In contrast

59 See also Section 3.3.3, where I underscored this latter point as an essential ingredient of the Norwegian mode of religious governance.

60 The church of Sweden, however, is more of 'high church,' and it has historically had a more independent relation to the state.

61 One of the first responsibilities of the newly created municipalities was to take care of the local church and church affairs. In other words, intertwinement works both ways.

62 For the former, this invites a conception of the church as open and near to the local community, rather than structured by ecclesial elites. For pietists, an independent local church might provide the possibility of increasing self-governance vis-à-vis local state structures.

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to the 1996 decision to transfer this right to the Joint Parish Council, it has asked for an exception to this rule. The solution provided for was to establish confessional sections in the public cemetery.

The city of Elverum was chosen to investigate one often-heard claim: People had suggested that the solutions in rural areas for Muslim burial needs would be different from those in the large cities. This claim seemed to hold some truth for Elverum, where the Parish Council proposed individually consecrating the graveyard. The Støren case study partially falsified the proposition again, since the solutions chosen were confessional sections understood as "soft demarcations" as well as the consecration of individual graves.

Concerning the solutions adopted toward the primary burial needs of humanists[63], I found evidence for a similar treatment of Muslims and humanists: the offer to individually consecrate a section (Støren). In Elverum, the minister planned to tear down the existing chapel and construct a more neutral ceremonial room. Yet, the "automatic" jump to the solution of grave-by-grave consecration effectively discredits the principled complaints of humanists. In fact, different consequences result from the respective solutions offered these minorities.

Field Research Question (2): What Are the Reasons Mentioned?

For Oslo, my material does not allow me to say for certain for what the reasons were for establishing these sections. But, clearly, one of the primary reasons lay in the influx of newcomers (causing a need for new sections over time).

The minister in Elverum argued that, in a local community, we should not "segregate in death what we want not segregate in life." Integration of all citizens to him meant being equal and lying in the same soil. Further, the connection between the church and the graveyard soil was perceived to be much stronger than in the city. A church-state legacy was mentioned as an important reason for extending equal rights to all minorities. However, this was translated as accommodating Muslims and humanists on an individual basis (i.e., consecrating each grave) rather than as a collective. This reasoning was also applied to the humanists, whose complaints about a symbolic and principled inequality did not resonate as well as the religious burial needs of Muslims with the sensitivities of the leader of the parish councils.

The case study of the village of Støren showed that rurality and/or size in and of itself do not matter. Rather, experiences with the influx of workers and foreigners over time and the personal attitude (i.e., personal discretion) of the church warden in charge seemed decisive for the solutions taken. Similar to Elverum, the choice for a confessional section was motivated by a concern with arranging matters equally for other minorities as well as their integration. Yet, unlike Elverum, the

63 Subsumed under the need for neutral ceremonial rooms and the removal of principled inequality.

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church warden proposed collective sections, and integration was not understood as avoiding divisions in death. To provide for confessional sections was not a problem – as long as the integrity of the graveyard was ensured: "To achieve wholeness (*helhet*), we do not all have to be the same." Humanists were treated on a par with Muslims and explicitly included in the integration objectives.

Field Research Question (3): What Are the Relevant Terms/Frameworks?

In the case of Elverum, the church minister explicitly refers to the Norwegian historical state-church legacy to underscore his commitment to accommodating the needs of minorities. "Precisely because we have a state church, the state and the church are both very concerned with securing the rights of minorities." A commitment to integration and integration politics prevented him from providing for sections or alternative confessional graveyards.

On many occasions, the church warden in Støren referred to the newly adapted Funeral Act: Exactly *because* he was a representative of one specific religious community as well as a public servant, he felt the obligation to respect the religious needs of others – where 'respect' for him meant finding a balance between providing for some form of divisions (if needed) and retaining wholeness (*helhet*).

In none of the Norwegian embedded cases was the term secularism mentioned or used. When asked explicitly about the effect of secularism on the work of the official in charge, responses consistently faltered (see Chapter 7).

5.4 French Embedded Cases

5.4.1 Paris: Historical Examples and Contemporary Governance

Paris is an extremely multicultural city. 334,566 foreigners (*étrangers*[64]), equal to 15% of the Parisian population, were living there in January 2019.[65] A total of 110 nationalities are represented in the demographic composition of Paris, the four largest groups being Portuguese, Moroccans, Algerians, and Italians. The category of *immigré* (immigrants) constitutes an even larger group and comprises people born outside of France but living in France, that is, someone of a foreign nationality who may eventually acquire French nationality in the course of their life. A total of 20.3% of the total population are considered immigrants according to the website

64 The category of *étranger* includes those who reside in France but do not have French nationality.

65 https://www.paris.fr/services-et-infos-pratiques/social-et-solidarites/droits-des-citoyens/integration-et-citoyennete-2464 [accessed 4 June 2020].

of the city council. The status of *étranger* is thus not a life-long designation as one can acquire French citizenship over time. Yet, one stays an *immigré* for life.

The 20 cemeteries in the Paris region[66] are administered and regulated according to an administrative and political schedule. At the top of the political hierarchy we find the mayor of Paris, Anne Higaldo (January 2021), with her 21 assistants and the Council of Paris (*Conseil de Paris*). The head of the administrative hierarchy is the *Secrétariat Général de la Ville de Paris*, who oversees four sectors in the public administration. The cemeteries fall under 'public space' within the department for 'Green Spaces and the Environment,'[67] which includes *le Service des cimetières*, the primary administrative body that governs all decisions regarding cemeteries. It oversees in turn the eight offices that tend to the everyday operations occurring in the 20 Parisian cemeteries. A conservator is typically located on the site of the respective cemetery.

In addition to the national burial law and the legal regulations as specified in the Code of the Autonomous Regions, a relevant municipal decree[68] stipulates for all Parisian cemeteries the rules regarding exhumations, concessions, and the prices of individual concessions. It is revised and formulated by the *Service des cimetières* following conversations with the field offices.

The estimate of the number of Muslims currently living in the Paris region can only be approximate. The French census does not gather information on religion or ethnic affiliation, though historically the city of Paris and the Department of the Seine have been home to the largest part of the Muslim population.

Their presence remained fairly marginal during the 19th century, although that was the high time of France's colonial activities. Only in the years before and after the First World War did migration from the North African colonies really take off (Renard: 2004, 54), due in part to the active recruitment of workers from the North African colonies and protectorates (Algeria, Morocco, and Tunisia) by the French industry.[69] France was one of the first European countries to actively recruit foreign labour (Bowen: 2006, 66). Also, in 1905, controls on migration from Algeria were

66 Fourteen cemeteries are located within the municipal boundaries of the city of Paris, referred to as the *Cimetières intra-muros*. Six reside in what is called *la petit couronne*, the neighboring departments of *Seine Saint Denis*, *Val – de Marne* and *Hauts de Seine* that surround the city of Paris. The cemeteries *intra-muros* are *Auteuil*, *Batignolles*, *Belleville*, *Bercy*, *Charonne*, *Grenelle*, *La Villette*, *Le Calvaire, Mont-martre*, *Montparnasse*, *Passy*, *Père-Lachaise*, and *Saint-Vincent* et *Vaugirard*. The *extra-muros* include: *Bagneux parisien*, *Ivry parisien*, *La Chapelle parisien*, *Pantin parisien*, *Saint-Ouen parisien,* and *Thiais parisien*.

67 *Direction des Espaces Verts et de l'Environnement* (DEVE).

68 Code Général des Collectivités Territoriales and Règlement des cimetières parisiens 2005, https://api-site.paris.fr/images/149748.pdf [accessed 4 June 2020].

69 For example, in Marseille oil and sugar refineries recruited Kabyles (a Berber people from northeastern Algeria) to replace the European immigrant workers on strike (Maussen: 2009, 68).

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relaxed, making a large reservoir of peasant laborers accessible (Maussen: 2009, 68). Furthermore, the First World War created a large need for soldiers as well as factoryworkers and fieldworkers. The government recruited almost a million men from the colonies to support the war effort (D'Adler: 2005, 64).[70]

This migratory pattern and geopolitical reality are also reflected in the burial domain. Although the first Muslim enclosure was already installed in the cemetery of *Père-Lachaise* in 1857, it was not until World War I that the question about Muslim burial was really posed by the military authorities (Nunez: 2011, 13).

From 1914 on, the Ministry of War circulated precise instructions drawn up by the Army Health Services concerning the rituals to be carried out in case of a Muslim death. A variety of military sections (or rows) were thus installed at the Paris cemeteries of *Ivry*, *Pantin*, and *Bagneux*. In 1937, Muslim cemetery of *Bobigny* was inaugurated, and in 1957 a Muslim section was installed in the cemetery of *Thiais*.

Thus, a wide range of accommodations had been in place in the Paris area well before the first decree of 1975. Furthermore, the Jewish population had long been accommodated, with seven Jewish enclosures created in the Parisian cemeteries until 1882 (Nunez: 2011, 17).

5.4.1.1 Historical Examples in the Paris Region

In the following discussion, I forgo an analysis of the provisions for military sections[71] and Jewish provisions. Instead, I would like to discuss specific cemeteries: that of *Père-Lachaise*, which allowed the first formal Muslim enclosure in France; that of *Bobigny*, which for a long period was the only Muslim cemetery on mainland France; and that of *Thiais*, which today is an important cemetery with Muslim sections and where, in 1957, France informally created a Muslim division. Taken together, they provide a relevant range of historical examples for the period 1857–1957.[72]

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70 Estimates speak of between 535,000 and 607,000 colonial soldiers, thereof some 170,000 Algerians (Le Paultremat: 2003, 173). Colonial workers often came on temporary contracts recruited, for example, from Morocco, Tunesia, and Algeria (ibid., 280).

71 Because military burial accommodations were a state matter and were based on military achievements rather than any confessional identity, they fall outside the analytic focus of the discussion.

72 By 'relevant' I mean that the historical cases include an example before the 1881 prohibition as well as two examples of accommodations (*Bobigny* and *Thiais*) that occurred well before the political legitimization of confessional sections in 1975. I have bracketed a discussion of the Muslim cemeteries in l'Ile de reunion and possibly Marseille. Renard (2000) speaks of a cemetery of the Turks in Marseille in 1723. Furthermore, a Muslim cemetery was created in Marseille within the cemetery of Saint-Pierre during the World War II, see Renard: 2000, 147–150. For a detailed discussion, see Petit: 2006, 115.

The last part of the case study addresses a contemporary vignette of how modern central administrators justify these historical provisions. The discussion relies on the work of Nunez on the accommodation of Islam in Parisian cemeteries (1857–1957), that of Telhine, Maussen, and Renard on Islam in France, on the works of Chaïb, Bowen, and D'Adler[73] on the Muslim cemetery of *Bobigny*, and on Aggoun and Petit on *Thiais*. The contemporary discussion is based on interviews and on-site visits.[74]

5.4.1.1.1 Cimetière du Père-Lachaise: L'enclos musulman

The city of Paris never had a cemetery dedicated solely to one confession (apart from Catholic cemeteries). Rather, until their prohibition in 1881, it allowed for confessional enclosures (*les enclos confessionnels*). *Le cimetière du Père-Lachaise* (hereafter *Père-Lachaise*) opened in 1804, and the first Jewish enclosure was created in 1809.

As Paris' most prestigious and explicitly *laïque* cemetery, the marks of Catholicism were nevertheless visible (Nunez: 2011, 15). A large Catholic chapel, paid for by private funds, has marked the aesthetic appearance of the interior of *Père-Lachaise* since 1822 (Telhine: 2010, 60). Furthermore, during the 19th century, the Catholic parish councils (*les Fabriques*) were in charge of the funerary processions on *Père-Lachaise* (and elsewhere in many other Parisian cemeteries), which meant that the Catholic Church took care of the Catholic burials as well as the burial of those belonging to other confessions. Not until the law of 28 December 1904 was this responsibility transferred to a municipal authority (Bellanger: 2008, 26).[75]

Thus, from its very inception, *Père-Lachaise* was *laïque* as well as Catholic, even while allowing for confessional parts in line with the Napoleonic Decree (1804), Article 15.

The question of Muslim burial and the consequent need for a Muslim cemetery was raised for the first time in the 1840s–1850s.[76] In 1847, *La Société orientale de France, algérienne et colonial* discussed concrete plans for "a college, a mosque, and a cemetery" in Paris (Telhine: 2010, 52). This organization, composed of intellectuals,

73 Nunez: 2011; Renard: 2004; Chaïb: 2000; D'Adler: 2005, 2008; Bowen: 2006; Maussen: 2009; Telhine: 2010; Petit: 2006; Aggoun: 2006.

74 I rely on interviews with the conservators of the cemeteries of *Pantin*, 3 October 2012, and *Thiais,* 2 October 2012, and the administrator of *Le service des cimetières,* 9 October 2012, at Père-Lachaise.

75 The municipal monopoly for burial undertakers, *pompes funebres,* was installed 100 years after the municipal monopoly of the ownership over the cemeteries. However, the former monopoly was abandoned in 1993, see Trompette: 2008. The latter municipal monopoly is still in place today.

76 Earlier plans were present in the treaty of Saint de Saint-German-en Laye in 1682.

diplomats, military men as well as scientists, religious leaders, and tradesmen, aimed to improve the relationship between France/Europe and 'the orient.'[77]

The motivations of the organization were philanthropic, dictated by Christian morality and charity as well as by political and geopolitical motives: They aimed to secure French interests as an imperial power in the conquest of Islamic soil (cf. Telhine: 2010, 56). In 1847, they delivered an official proposal to the Department of Justice and organized religion, though the proposal was dismissed because of the small number of Muslims residing in France and the perceived lack of representational legitimacy *vis-à-vis* the other Muslim powers (Telhine: 2010, 57).

In 1853, a Muslim enclosure was nevertheless authorized by the municipal board of Paris and established in 1857 in *Père-Lachaise*. The direct reason for this move was a demand by a high Muslim leader Ottoman Sultan Abdülmajid the 1st, who requested a burial area for Muslims residing in Paris or those who died while passing through France. Napoleon III responded favourably to the demand of the Turkish embassy.

The decision was informed by the French-Russian war *la guerre de Crimée* (1854–1856), in which the French were in alliance with the Turkish (and British) nation against the Russians. Nunez suggests (2011, 19) that the decision should furthermore be seen in the larger context of Napoleon III's colonial politics in Algeria. She frames it as *indigenophile* (favourable to the indigenous), displaying a willingness to respect local traditions and an aversion to assimilating the conquered population as well as the attempt to exert social control (cf. Rey-Goldzeiguer: 1977, referenced in Nunez: 2011, 19).

The *Prefecture de la Seine* made an area of 3260 m^2 available in the 85st division for burials according to Islamic rites. The enclosure provided for graves in the direction of Mecca as well as containing a waiting room, a small mosque with a washing area, and a special area for religious objects. A timber wall, furthermore, surrounded the Muslim enclosure. The enclosure, dedicated to the inhumation of persons "professing the Mahometanian religion," was inaugurated in the presence of Turkish high officials (AdP, VD4 10, pièce 2916, referenced in Nunez: 2011, 19). This did not cause any protest and was largely ignored by the press. As Telhine (2010, 69) explains, these provisions were discretely inscribed in the "Christian surroundings" because of particular historical circumstances and an orientalism in vogue.

Over time, a series of internal and external geopolitical developments changed the character of this enclosure. As early as 1870, the cemetery board decided to reduce the area reserved for Muslim burial to 1380 m^2. This was never made official,

77 They provided information and assisted travelers to the orient with the journal *La revue de l'Orient*.

but the municipality of Paris decided to use the space for a depository and for expanding the Jewish enclosure, which had run out of space.

Then, because of the 1881 law, which required the abolishment of all visible forms of demarcation, the wall surrounding the enclosure was removed, though subsequently, under protest from the Turkish and Persian embassies, replaced by a hedge. A note by the general inspector of the cemeteries invited the Department of Work (*le direction des travaux*) in reference to the 1881 law:

> (…) to destroy the walls of the enclosures allocated for the burial of Israelites (…) as well as [to destroy] the purification edifices constructed in each of these enclosures and the wall of the Islamic enclosure (Note 7 December 1882, quoted in Telhine: 2010, 65, my translation).

The washing-house should thus also be removed. But, in a compromise move, they continued to allow it to exist.

In 1914, the board of the cemetery decided to demolish the remains of the mosque and suggested rebuilding plans. In 1873, the Turkish embassy had requested authorization to clean the Muslim enclosure but never did. The result was that the mosque became dilapidated, and after demolishment, it was never rebuilt. By now, during World War I, Turkey and France had become enemies (cf. Telhine: 2010, 19).

Today, only 487 m^2 remains of this large area, still surrounded by a 1-meter-high hedge. On the mosque's former location (currently outside the terrain of the remaining 487 m^2), there is now a chapel for a Dominican General whose remains were transported to Spain. The area is only rarely used for Muslim burials, as most go to *Thiais*, though some symbolic exceptions remain. People of status, political exiles, and others are buried here (such as a young Maghreb student who was beaten to death in the students protest of December 1986).

5.4.1.1.2 The Muslim Cemetery of Bobigny

Given the small numbers of Muslims present in Paris at the end of the 19th century, the provision at *Père-Lachaise* was exceptional. Only around 1900 and during the first two decades of the 20th century was the question of Muslim burial more seriously posed by the Parisian authorities, the result of France's military endeavors and geopolitical ambitions. By this time, the French empire had expanded to include colonies and protectorates in various parts of the world, including a range of Muslim states in Asia, Africa, the Caribbean, and the Pacific. The war of 1914 also created a large need for soldiers and for workers of various kinds.

All this resulted in a variety of military accommodations in the Paris area. In May 1915, the military governor of Paris requested the prefect of the Seine to allocate a piece of terrain for the fallen Muslim soldiers. A row of 40 graves was

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allocated in the cemetery of *Ivry* as well as several lines within existing divisions in the cemeteries of *Pantin* and *Bagneux*. In total, 307 Muslim soldiers were buried in Parisian cemeteries in 1918, among a total of 7,909 soldiers (Nunez: 2011, 25).

Interestingly, this eventually led to the accommodation of civil casualties as well, as may be inferred from the Muslim cemetery of *Bobigny*, where the civilian (nonmilitary) Islamic population was buried by the municipality (and not the state) within its municipal cemeteries.

In 1918, the military authorities expressed their regret that there had been instances where indigenous Muslim workers had been buried in a military section. Worried that they might be mixing workers with real soldiers, a situation that might weaken the veneration attached to these military necropoles, they proposed the creation of a specific section. The 30th division of the cemetery of *Pantin* was then allocated for these Muslim factory workers in 1918. The graves were faced in the direction of Mecca and were administered by the municipal agency.

Clearly these ad-hoc solutions – and "discretely negotiated spaces" in Nunez's (2011, 25) wording – paved the way for more official solutions in *Bobigny*. But other factors played a role as well.

In these first decades of the 20th century, the relationship between Paris and its colonies became more intimate, stemming from the increasing trade relations between the colonies and France, resulting in a flow of goods and people (cf. Maussen: 2009, 67). Also, during this period, France became very concerned with its status as a Great Muslim and colonial power, visible in the organization of national colonial exhibitions (five in total between 1900 and 1930), which aimed to inform and enthuse French audiences about its colonial empire (Maussen: 2009, 67). This became visible during the celebrations surrounding the 100-year colonization of Algeria (1830–1930) and in the wish of the French government to construct a grand mosque of Paris.[78]

In 1920, the French government charged the *Society of Pious Trusts and Islamic Holy Places*[79] with the task of creating a Muslim institute in Paris and helping to realize the construction of a Paris mosque. The government wanted to construct this prestigious edifice to symbolize France as a Muslim power and to recognize the sacrifices made by the fallen Muslim soldiers in the 1914 war.

The mosque was subsequently built between 1922–1926 and inaugurated in 1926 in a grandiose ceremony with a range of high officials present. At this point in time, the French state was proud to identify itself with Islam (albeit a "French Islam"). In the words of the President of the Municipal Council of Paris, Pierre Godin:

78 For details on the process of constructing the Grand mosque of Paris and the historical context, see Bayoumi: 2000; Le Pautremat: 2003; Bowen: 2006; Maussen: 2009.

79 This association, *La société des Habous et des lieux Saints de l'islam,* was created in 1917 to aid Muslims in their pilgrimage to Mecca and Medina.

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> This foundation shows our brotherly affection for the Muslim populations who are part of our colonial empire (…) Ever since it has put foot in Africa, taking up the civilizing work, of which Rome has handed over the tradition, France is a Great Muslim Power (Granet: 1993, 28, as translated by and quoted in Maussen: 2009, 78).[80]

In order to circumvent the 1905 law, which prohibits the state from directly supporting any form of organized religion (*culte*), the Muslim institute was created with the status of an *association culturelle* (a cultural association), so that it could receive donations to finance the mosque. The 1901 law permitted the state to finance cultural organizations. As Bowen (2006, 37) remarks, by that legal construction the state replicated the old Gallican political pattern of promoting as well as controlling religious institutions. The French state created respectable sites for religion not only to be equal but also to control the Islamic presence. This is a logic of recognition and control, which we then see replicated in the construction of a Muslim hospital and cemetery.

The idea for a Muslim hospital was born during the celebrations of the inauguration of the Grand mosque (D'Adler: 2005, 73). Members of the Parisian Municipal Board like Godin argued for erection of a Franco-Muslim hospital to honour the Muslims who had battled for France – and to court the North African population, required to secure the future of the French empire. But also concerns with hygiene and surveillance mattered. The Parisian elite was worried about the presence of this new North African population, who had illnesses like tuberculosis and whom they preferred not to mix with the French population. Unlike the grand mosque, located in the heart of Paris and appealing to the Muslim elite, the hospital was constructed in an outer (workers) suburb of Paris, in Bobigny.

The Communist mayor at the time did not want the hospital. Yet, the decision was taken at the level of the *departement* without his approval (D'Adler: 2005, 75). The hospital called today *Avicenne* was inaugurated on 22 March of 1935 in the presence of high officials, without the mayor present.

The Muslim cemetery of *Bobigny* followed as a complementary provision to the hospital. The initiative came from the *Society of Pious Trusts and Islamic Holy Places*. Originally intended as a place of burial for the Muslims of the hospital, the cemetery was soon opened up to receive Muslims in the broader Paris region. Godin authorized its creation in 1931:

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80 "Cette fondation traduit notre affection fraternelle pour les populations musulmanes qui font partie de notre empire colonial (…) Depuis qu'elle a mis pied sur le sol de l'Afrique, reprenant l'œuvre civilisatrice dont la Rome antique lui a transmis la tradition, la France est devenue une grande puissance musulmane." The original transcript of the speech comes from a brochure called: "Fondation de l'institut musulman et la Mosquée de Paris," see Bayoumi: 2000, 173.

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> Is it necessary to say that our respect for their religion is absolute? It is the honor of our history that has made us defenders of the belief in the individual right to freedom of conscience. We do not need to recall here that it is not without our help that the Muslim institute was created. (…) The Institute of Nord African Affairs in agreement with the Society of Pious Trusts and Islamic Holy Places is currently studying the possibility to buy a terrain destined to allow for the inhumation of Muslims in a special cemetery, and which will be declared as Islamic soil. (…) The realization of our idea will once more testify to the respect with which we embrace their conception of the moral life and their social customs (Ben Fredj: 1989, quoted in Chaïb: 2000, 169, my translation).

Yet there was some local opposition. The inhabitants of the area protested, fearing the expected devaluation of their living quarters and the exodus of inhabitants (D'Adler: 2005, 86). The municipal board of Bobigny also objected. Yet, the department dismissed all objections and inaugurated the cemetery by a modest ceremony in June 1937 without any high officials present.

The cemetery extended over 3 hectares, containing around 6,000 graves, all in the direction of Mecca. It contained a washing area, a prayer room, and a small concierge building. Legally, the cemetery was constructed as a private cemetery administered and paid for by the hospital (cf. D'Adler: 2005, 84). Although confessional cemeteries had been prohibited since 1804 and 1881, creation of private special cemeteries (in this case, a hospital cemetery) was not uncommon.[81] Until 1961, the hospital fell under the administrative responsibility of the Prefect of the former Seine district of Paris (Bowen: 2006, 45).

From 1961 on, *Assistance Publique*, the hospital service for the needy, was put in charge of the Franco Muslim Hospital. Now, the cemetery functioned as a private holding of a public entity and could thus retain its confessional character (Bowen: 2006, 45). The cemetery remained for Muslims only, but had opened up to all patients from 1945 on.

During the following 30 years the cemetery was poorly managed and neglected. In practice, not only the Prefect but also the Islamic Institute (*institute Musulman*) had the power to allocate graves. It worked with a system of free concessions where families made donations to the mosque. Effectively, the Grand Mosque of Paris thus managed the terrain.

Consequently, Petit remarks, it "became a space of lawlessness [*un espace de non-droit*] managed in a random and sometimes preferential manner" (2006, 110). It was this aspect, in Petit's words, that fact "gave it its very distinct confessional character" and "exceptional status" (*statut dérogatoire*) (Petit: 2006, 110).

81 Chaïb (2000, 168) mentions the hospitals Paul-Brousse and psychiatric hospital Villejuif in the *département* of the Seine, which were also authorized to have a common special cemetery.

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This became problematic only in 1989 (the year of the first headscarf affair in France), when the general inspection of the Ministry of Internal Affairs took a survey and subsequently published a report suggesting the abandonment of the "exceptional status" of the cemetery. It proposed connecting the cemetery to the intermunicipal union (*syndicat intercommunal*) of Bobigny, La Corneuve, Drancy, and Aubervilliers.

Since 1999, the intermunicipal union has been the formal managing institution, and the cemetery has since been legally opened to all deceased in the respective municipalities. In theory, it became one large Muslim section within an intermunicipal cemetery, though in the restructuring plans, the intermunicipal union did not want to give each group their section, saying this would violate the historic character of the cemetery. Furthermore, they argued, "Giving a specific section to each group would make the question of how to manage the graves extremely complex and would inevitably allow for conflicts of interest to occur, resulting in a closing off" (Petit: 2006, 113).[82]

The union insisted on transferring the management of the prayer room (later transformed into a little mosque) to the responsibility of a local religious association (*association cultuelle*). In Petit's words:

> The space is thereby separated in two: on the one side, the place of worship, private and religious, for which the union does not bear any responsibility; on the other side, the cemetery (Petit: 2006, 112).[83]

She concludes that, by this transmission of powers, the cemetery is "reintegrated into the normal legal system" (Petit: 2006, 110).

Currently, the cemetery has two entrances: a main entrance with a large monumental entrée and a monitoring station; and the older entrance with a subtle Islamic outlook, which looks out onto a courtyard with the mosque at the end.

5.4.1.1.3 Thiais: at least six Islamic sections

The Muslim section in *Thiais* was installed in 1957 at the request of the mosque of Paris. Much in line with the construction of the mosque of Paris, an initiative of

82 I quote them because they either represent what the syndicate has told her – or they reflect her contemporary concerns: "(…) attribuer un espace spécifique à chaque groupe rendrait la gestion des sépultures extrêmement complexe et donnerait obligatoirement lieu à des conflits d'intérêt et à un cloisonnement." Either way, they suggest how a contemporary focus on *laïcité* results in critique of the institutional format of this historical cemetery.

83 "L'espace a donc été séparé en deux: d'un côté le lieu de prière, privé, cultuel, dont il n'a (sic) absolument pas la responsabilité et de l'autre, le cimetière"; my translation.

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the French government, "confessional regroupings in the interbellum period are discretely allowed for in the public cemeteries" (Nunez: 2011, 28, my translation).

In Nunez's account, the section in *Thiais* results from the lack of space in the cemetery of *Bobigny*. When, in 1952, the prefect of de la Seine is invited to "study the possibility of creating a Muslim cemetery in an area more distant from Paris" (AdP, D6K3 13,21, quoted in Nunez: 2011, 30, n88), the choice falls on *Thiais*.

Petit, however, situates the provision of the Islamic section in a slightly more politicized context: that of the events in Algeria. The regroupment in *Thiais* was, in particular, intended to allow burial space for Algerians Muslims. The mode of burial in that case was not – like today – in the direction of Mecca. This pertained to regular concessions issued for 5 years, after which the bodies were to be exhumed again (Petit: 2004, 106).

She does not further allude to it in her analysis but implies that the Algerian Muslims, named *harkis* or *musulmans francais,* who fought on the side of de Gaulle in the Algerian War of Independence (1954–1962), could not be repatriated to Algeria upon de Gaulles' departure but needed a place of burial in France during the war and thereafter.

But whether this was indeed the motivation to establish the first Muslim section is hard to answer. The archives of Paris lack any formal documentation in the form of either a municipal or a departmental decree (*arrête prefectoral*),[84] which suggests that the accommodation occurred unofficially. This may also be related to the low status of this cemetery (compared to that of *Père-Lachaise*, for example).

The cemetery of *Thiais*, created in 1929, covers a massive area of 103 hectares, which, together with the cemetery of *Pantin* (106 hectares), makes it one of the largest cemeteries in Europe. It is divided into 130 squares (*divisions*) along 18 avenues and is informally referred to as the "paupers' cemetery"; it used to contain a large set of common graves, that is, graves for the destitute. Furthermore, it is known for the large variety of cultural and confessional divisions. Some judge it negatively precisely because of that diversity.

Now a look at the contemporary reality of *Thiais*. It currently contains separate Asian, Buddhist (division 36), Orthodox, and Catholic confessional and cultural sections as well as a Jewish section (divisions 24 and 25), although most Jews in Paris are buried at the *Pantin* and *Bagneux* cemeteries. There are at least six different Muslims sections.[85] According to Petit, they are spread out over 15 different divisions: a mixed Muslim section, the largest (81, 89, 97), where Muslims from a

84 I researched in the archives of Paris (*les Archives de Paris*) and found no traces of this decision. Nor could the conservator of *Thiais* or any administrators provide the justifications given.

85 I rely here on Petit: 2006 and a 3-page informal document stamped by the *Services des cimetières* which enumerates the existing cultural and religious divisions in *Thiais* with specific details. Aggoun (2006, 58), however, mentions a total of 10 divisions (74, 81, 89, 91, 93, 97, 100, 101, 103, 109).

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variety of Maghreb countries as well as l'Afrique du Sahel (Mali, Senegal, Niger, etc.) are buried. There is furthermore an Albanian *carré* in division 89, a *carré Iranian* (division 110), and a *carré ismaelite* (division 34). A small hedge separates the part reserved for Ismaelian Muslims to prevent the Muslims buried here from mixing with others. Then there are Muslims from Madagascar and an ethno-religious group of Muslims from India (*carré de musulmans indiens* in division 90). A low hedge surrounds all divisions.

In light of that striking diversity one can ask how much the cemetery of *Thiais* truly differs from *De Nieuwe Ooster* (see the Amsterdam case study)?

5.4.1.2 Contemporary Part of the Paris Region

How do contemporary administrators relate to these historical exceptions? And how do they navigate the contemporary contradictions? Do they really allocate graves without taking confessional affiliation into consideration? And what role does secularism/*laïcité* play? I posed these questions in three separate conversations with the highest administrator of the Parisian cemeteries (*le Chef du Service des cimetières*) and two conservators located at the cemeteries of *Thiais* and *Pantin*. The head of the cemetery services has an important administrative role in the management of the cemeteries and is a direct advisor to the mayor in matters of burial.

In my conversation with him, I discussed the contemporary contradiction: that of the diverging legal regime of Alsace Moselle vs. the rest of France. I also discussed the continuing legal prohibition of confessional sections despite their political legitimization since 1975.

In his statements, these contradictions are closely linked to the historical development of different forms of *laïcité*.

Regarding the contradiction between the reality in Alsace Moselle vs. the rest of France, my respondent explains that, "when the old funeral laws were dismissed because of a hard regime of *laïcité* (*laïcité dure*)," one part of France was occupied by Germany. Everywhere in France cemeteries were removed from of the hands of the Catholic Church. Yet, these new laws were not applied in the region of Alsace and Moselle, nor were they installed when this region was reunited with France in 1918. Thus, currently, the inhabitants of the French region of Alsace and Moselle have the legal obligation to provide for confessional sections in the cemetery, while elsewhere in France this is legally prohibited. "That is really quite unbelievable," he says.

Regarding the current prohibition (but political legitimization since 1975), he explains further: "The conception of French *laïcité* (*laïcité française*) must be understood by the desire throughout French history (…) to separate the state and the Catholic Church." And he provides a historical sketch in three stages: Initially, all cemeteries were confessional and in the hands of the Catholic Church. In the Middle Ages, Jews and Protestants were buried everywhere else but in the Catholic ceme-

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teries – sometimes in the pits. Second, after the French Revolution, the cemeteries become municipal and laic. However, "This municipal system initially integrated the various religions."

What he means but does not further explain is that this entailed a form of 'open secularism' (his words): The introduction of the Napoleonic Decree in 1804, Article 15, still allowed different confessional groups to have their own sections of the municipal cemetery with a surrounding hedge and their own entrance.

My respondent continues: "But later on, they abandoned this notion of an open and communal secularism (*laïcité commune et ouverte*), so that, from then on, we could no longer have distinctions and confessional sections in the cemeteries."

In other words, in a third historical period leading up to the Third Republic (1870), all that was legal becomes illegal from 1881 on. And according to my respondent this led to two sets of problems:

> The problem (…) is that cemeteries do not lend themselves to being steered at the level of a mandate (…). If one has done things a certain way for the past century, you cannot simply eliminate them, change them. This concerns private properties, sacred places – that is what cemeteries are all about. So, by definition, one ends up with things that are, in fact, (*dans les faites*) contrary to the law.

Second, he explains that, since the 1970s, political leaders have discovered that this prohibition of confessional sections is at odds with the needs of modern society. And thus, with the publication of the three *circulaires* in 1975, 1991, and 2008, French mayors were encouraged (again) to provide for confessional sections:

> Now, they say, ok, go ahead. (…) and the administrator is well obliged to provide for them, if you like, by observing the modern concept of positive secularism (*laïcité positive*), which means you remain neutral but also try to satisfy everybody. (…) But I, as an administrative manager of the cemeteries, I do not agree. We have an enormous hierarchical legal system: an administrative directive (*circulaire*) has absolutely no value regarding to a law.

I ask him what the solution should be. "Well, here I have to be pragmatic. As a matter of fact, and also because we are obliged to provide for these sections, mainly because there is a very strong demand." That demand does not come from the historical sections, he explains. Since the revolution, the Jewish French community has been accommodated in different ways, whereas the Muslim population, even if they are very important in France today, has not expressed such a strong desire for their own sections in the Paris region:

> But new segments of French society, different Asian groups with strong desires for special sections, are making such demands on us. They have such different burial customs, that not regrouping them together would lead to large problems in the cemetery.

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"So," I ask, "should these sections be legalized?" Here my respondent takes a bit of a defensive stance:

> Oh, well, here I most certainly do not want to do the work of our legislators! You should understand that, as a member of the Parisian administration, I have to maintain a certain reserve. The opinions I express as an administrator are not necessarily those that I hold as an individual. (…) We have to leave it to the legislators to decide whether they make this illegal or legal. But, as a functionary, it is my right to say to the lawmakers and to my constituency: 'Do something for us, give us a legal framework that is coherent and viable!' Every day, in fact, we are forced (…) to juggle our words and texts to please the people (*donner satisfaction*), but without managing the cemetery in opposition to the law.

He had been interviewed in 2008 on this matter by a legal commission of the Senate. He discussed with the senators the problems of *laïcité*:

> I said, if in other parts of France confessional sections are not a problem and in large parts of Europe they are not a problem, perhaps it's time to revise French law? Perhaps our French legislators should think about whether our funeral law, which is based on a combative secularism (*laïcité de combat*) versus Catholicism, should now be altered? Maybe this is the moment to put our concept of positive secularism (*laïcité positive*) to a test – and at least unify our funeral law nationwide.

He fully agreed with the first suggestion from the Machelon Report to provide for a legal framework. However, the second suggestion in the report, namely, that of creating private cemeteries, he dismissed, referring to bad examples of this kind in Spain. "Who decides whether this person should be buried here or there? Well-understood secularism (*laïcité bien comprise*) is a guarantee for equal treatment."

In the administrator's reasoning, *laïcité* has become a general norm that should be obeyed in society at large, irrespective of whether it is applied to the public or the private sphere. He was simply unsure whether certain religious groups were enlightened enough to be guaranteed equal treatment. By allowing for private cemeteries, the state would relinquish control. "And then things will happen like with the Catholics: They exclude and decide who can be buried where and who cannot."

I countered his fear by giving the example of The Netherlands. The director of the Catholic graveyard in The Hague had reassured me that he was not interested in exclusion whatsoever. Rather, they welcomed other religions, eager as they were, to keep their cemetery financially sound. Second, I said, this is a private domain. *Laïcité* only applies to the public. "I am afraid I must disagree," he answered:

> The state has a moral collective responsibility to take care of the cemeteries. I don't believe that, one day, the municipal cemetery will accept everyone, but that all the problems confessional communities have with their possible exclusion of members, I leave to their own.

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"But they do that already, don't they? They can already say in the private sphere: 'We are a little club and we don't want you to be part of us!'" I reply. "Yeah, but that is civil society," he answers. "Well, but the private cemetery is also civil society," I maintain. "Yes, but here I am a fervent believer: I do not want private cemeteries in France." "Ok, I understand that," I answer, "but I do not understand why you see it as incompatible with *laïcité*. Why is exclusion a problem if it is already occurring within private groups?" He answers:

> No, not in death. In death, you're dealing with the sacred! The collective has a responsibility to take care of its dead in an equal way, while taking their differences into consideration: Private cemeteries would create so much abuse.

The fear of confessional exclusion is thus a sensitive topic for the administrator. He cannot further explain to me why he fears this, other than recounting a historical narrative of Catholic exclusion in the graveyard at the time of the French Revolution. He emphasizes the state as the public caretaker, which serves to guarantee that the confessional identity of the deceased does not play a role in the allocation of a grave.

Yet, as he readily acknowledges, the existence of confessional sections complicates this ideal. If he receives a demand from a family for a place in the 25th division in *Pantin*, he has to say yes, if in fact such a place is available. He cannot ask them if they are Jewish. If he observes that, in all likelihood, the family is not Jewish, he tries to deny the request. "But we do not have the legal ability to actually say no (…). French law does not allow us to take religion into consideration."

"But," I ask, "in practice you do try to avoid having a Catholic in the Jewish section?" Then, somewhat contradicting his former statement, he said: "Oh no, no, we cannot do that! Well … the case has not really turned up yet. Typically, a Catholic does not want to lie next to a Jew." "But what if it's a provocative secularist (*laïcard*) who wants to make a point by being buried in the Muslim section?" I ask.

This was a reference to my conversation with the conservator of Pantin, who confessed she would not "amuse herself" by putting a Catholic in the Jewish section.

The administrator shifted focus again: "Well, when push comes to shove, we would refuse and see what that brings legally, yet this has not yet occurred."

He did have an example of the conservator of *Thiais*, who was called in one day to the cemetery with an emergency. When the conservator arrived at the scene of the burial, she encountered a family in great distress: The Muslim who was about to be buried belonged to the Shia Muslims and the grave was located at the Sunni section. "Impossible," noted my respondent. They decided to halt the burial and to arrange for a new burial in another section.

> Do you know how many Islamic subdenominations we have at *Thiais*? Seven! That's entirely unmanageable! We have to find a balance: please people but within certain limits.

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> Where those limits lie – *that* is the question. That, however, is the job of the legislator not the administrator.

The other problem with Muslim sections, he explained, is not their illegality, but that it takes up so much space:

> When you have 100 people to be buried every day, then 'hoppity hop' they are allocated a grave, one after the other. But if you have 100 people divided over 15 different denominations, that takes a lot of resources and space. In one division, we cannot alternate tombs *(caveux)* with soil graves, and we cannot put different confessions next to each other. If then, on top of that, we have to accommodate special subdenominations within a religion, it all becomes a very complex management.

The administrator wavers in his answers between providing a formal solution, staying neutral in the allocation of a grave, and meeting the challenges of the daily situation. He is hesitant to admit that he would take confessional identity into consideration if there is a conflict between a family's wish and the will of a religious community.

I ask him further on that: "Are you afraid one day to really transgress *laïcité*?" "Well, if you follow the word of the law, you cannot do anything," he explains. "People demand to be buried in confessional or cultural sections every day."

So, he makes a distinction between "the word of the law" (*le texte de la loi*) and "the spirit of the law" (*l'esprit de la loi*).

"Could you give me a concrete example?" I ask. "What goes *beyond*?" "Well, burying someone without a coffin is clearly beyond the limits." Me: "Yes, but do you have an example in terms of space?" He answers:

> One problem we currently have is that the Jewish sections are all full, and we dare not touch them because Jews cannot be exhumed. The law does not allow us to consult with religious authorities, but in the end, we [he and the mayor] had to break the law and enter into a dialogue with the Jewish community. We are out of space. (…) We agreed to a solution whereby we exhume according to French law but do this taking their religious rules and customs into consideration in the strictest sense.

They agreed to a solution where all the remains of the bodies of an entire division would be collected and put into one ossuary. "So, a Jewish ossuary?" I asked. "Oh, no, no! These are *municipal* ossuaries, and we put the remains of the entire division together." "Ah ha," I say, "so it is not a Jewish ossuary but the remains of the deceased from that division – who all happened to be Jewish?"

"Now, you have understood *laïcité*." [*he laughs*] The laic logic was that this was a process managed by division and not by religion (*culte*).

I inquired further into the possible consequences of going beyond the law. "Well",

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he said, "imagine a laic extremist who says: 'Les Services des cimetières de Paris do not respect the law.' I would have to defend myself in court." I replied: "Ok, that is a reality, something you really have to think about?" "Absolutely. Officially I cannot have *carrés*, but I use all the possibilities within the law."

"Would you go to prison?" "That depends. One could go to prison. French law is very protective of human remains."

Another example where he "violated" *laïcité* was the tragic event of a 17-year-old boy who died in a traffic accident a little before Easter. They decided to make an exception out of respect and bury the boy on Easter, an official Christian holy day on which one should not work. "We stand for a humane management. One cannot apply rigid texts to this domain."

I answered: "So there you violated laïcité?" "Yes, of course, but I violated it as a rule written in a context without positive laïcité. It is in essence a problem of the spirit and form of the law."

"But," I wondered, "are there not other ways to interpret what working within the spirit of the law implies?" Here, I mentioned that some people see confessional sections as ghettos. He responded:

> Well, people in the field will give you by and large the official version. We cannot admit that we do not obey the law, so some of my colleagues may be afraid to speak their mind. But I am used to working with ministers and take a certain liberty expressing my opinion. I am a consultant to the mayor. If I should make a mistake in my interpretation, then I will take the administrative responsibility.

I was curious to see whether I too would be served up an official version of *laïcité* in my conversation with the conservator of *Pantin*. I asked her how secularism affected her work:

> For me, all places/spots (*emplacements*) in the cemetery do not belong to any religion. I sell a spot whether it is Jewish or Catholic (…). As a logical consequence, I do not take religion into consideration. So, I can give them whatever spot. Unfortunately, however, there are people who think they are entitled to more respect than others regarding their religion. They sometimes exert pressure to obtain a place in a confessional section, where only their own people lie. And that goes beyond my framework. I ask those higher in the hierarchy what they think.

The head of the cemetery services is her superior; he makes the decision together with her. "Can you tell me how this works: Say, there is a person who wants to be buried in a special section? Do these sections exist?"

> Oh, yes, they have long existed (…) they have always been there since the opening of *Pantin* (1886). There are 100% confessional sections and there are mixed sections.

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"And anybody can be buried there?," I ask. "Theoretically everybody *must* be able to be buried there. They were created because of personal pressures and exist today (…). So, today, because they exist, we use them."

She tells me that if the Jewish council asks her to bury somebody there, she calls her boss. "We talk. If I have spots available, I say yes. If not, we discuss how to solve it." She explains that there was a time when people bought an enormous amount of concessions. There were no real limits, so they bought a whole row (typically 10 concessions) and thus secured a place for several families and made sure there would be no other religions nearby.

> They played it by ear. The neighbor said, 'Ah, you are Jewish. Well, we will buy the other row,' and so we ended up with these divisions, where (…) the result was 100% confessional division.

"Were these families or religious communities?" I asked. "They were families who created the confessional divisions by buying whole rows of concessions." "So, it was not a political decision to provide for a confessional section?" She replied:

> No, it was the will of the families, not a political will. In a way, it happened by itself. And now people know there are more Muslims in *Thiais* and more Jews in *Pantin*. (…) [*with great dissatisfaction*] They perceive us [*Pantin*] as the Jewish cemetery, but I am laic!

But then, similar to the head of the cemetery services, she modifies her answer.

I asked, "You told me earlier that *laïcité* expresses itself by *not* taking into consideration religious affiliation." She answered:

> Well, although I am required to respect *laïcité*, I cannot shock families. If I'm dealing with an Islamic family, it should be clear that I am not voluntarily going to put someone next to a Jew. I know very well that that will create conflict. I am not going to do something just to amuse myself (…) No, no, I am careful. And it is true in a sense: We now create these sections ourselves.

"So," I asked, "you do not in fact allocate graves at random?"

> Ah, no, I try not to shock. However, if they tell me nothing and the family name does not indicate any particular confessional belonging, I put them in an open division according to arrival.

She guessed confessional belonging in several ways: by looking at the family name or because the funeral undertaker was of a specific confessional affiliation. Or, quite regularly, the funeral undertakers wrote "*carré Musulman*" and "*carré Israelite*" on the files. "That," she emphasized, "is strictly prohibited, of course! We are not

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allowed to say 'This person is a Muslim, Jewish, Catholic,' (…). So, we give it codes '1, 2, 3' and colours to avoid giving it names."

5.4.2 Montreuil

Montreuil is a densely populated municipality and suburb in the Paris district, with somewhat over 100,000 inhabitants.[86] Informally called Montreuil-sous-Bois and part of the Department of Seine-Saint-Denis,[87] 24.7% of its population has an immigrant status *(immigrées),* i.e., people born abroad but residing in France.

The largest groups of foreigners (*étrangers*) are the Algerians, Portuguese, and large numbers coming from Mali, Morocco, Tunis, and Italy.[88] The presence of those from Mali led to the nickname of *Mali-sous-Bois* or *Bamako-sur-Seine* (the second largest Malian town) (Bordier: 2005). They also comprise the largest part of the Muslims residing in Montreuil. Furthermore, Muslims came from the Maghreb area (Morocco, Tunis, Algeria) with the migration wave of the 1960s and after the Algerian War.

Montreuil has historically been part of "the red belt" (*la ceinture rouge*), a series of Communist cities near Paris. Although the Communist party, which became strong in the 1920s, is increasingly losing influence over the municipalities surrounding Paris, Montreuil has remained a prominent bastion (Desmoulières: 2014). Communist until 2008, thereinafter shortly led by a member of the Ecologist Party, in the municipal election of 2014 it once again chose a Communist mayor.[89]

Pivotal in this case study, and for understanding the policy outcome toward Muslims in the cemetery, are the decisions of a former mayor who served in that function from 1984 until 2008. As a former Communist and mayor for more than 20 years, this man has a contested reputation as a politician. Seen by some as a defender of Muslim rights, he is accused by others of being an 'ultrasecularist' (*ultra-laïcard)*[90] and Islamophobe.[91]

In what follows, I look at some of his municipal decisions regarding the public presence of organized religion (e.g., cemeteries, public financing of houses of

86 It has a total of 106,691 habitants (2015), 26,306 of whom are estimated to be immigrants, see http://www.montreuil.fr/la-ville/population/ [accessed 6 June 2020].

87 It is part of the region of Ile-de-France and the arrondissement of Bobigny.

88 See http://lepoivron.free.fr/article.php3?id_article=217 [accessed 6 June 2020]. The numbers quoted are estimates from 1999 and 2005, but they give an approximate idea.

89 Dominique Voyne was previously mayor. Patrice Bessac (Front de Gauche) became mayor in 2019.

90 As Taifour (2012) remarks in Oumma 09 June 2012: "We have really seen everything. Those who yesterday did not have harsh enough words to denounce Islamic communitarianism in the name of a very narrow conception of *laïcité,* flirt today with the Muslim voters promising them the construction of a Muslim cemetery." (My translation).

91 I would most certainly not support the description of him as Islamophobic.

worship, etc.). First, I take a closer look at some of these decisions that address the question about justification and institutional formats in the cemetery. Are the solutions chosen here similar to those in Paris? Second, it shows the large degree of discretion a French mayor has. Third, it reveals the differing ways in which *laïcité* (or, in his case, primarily the 1905 law) is used and upheld (or, the opposite, avoided) to support accommodation of certain practices or firm prohibition of others.

There are two cemeteries in Montreuil, an old and a new one (*l'Ancien cimetière de Montreuil, Nouveau cimetière de Montreuil*). Unlike Paris, where the governance of the cemeteries is carried out by a separate administrative body, in Montreuil civil affairs and cemeteries are administered in an office under the direction of *d'accueil et proximité*, typical for smaller cities. Similar to Paris, there is an administrative as well as a political hierarchy whose decisions affect the way the cemetery is managed. Also, in Montreuil the political establishment overrules the administration.

In my conversation with the administrative head of the Office of Civil Affairs and Cemeteries and her assistant[92], I learned that an Islamic section had been installed in 2007 in the old cemetery of Montreuil.

It was put in place for what they referred to as "technical reasons," namely, demand from the Muslim community and the direct need for burial space. Furthermore, there has long been a Jewish section in the old cemetery. So, they felt they could not deny Muslims a similar provision. Most importantly, they told me, the decision was handed down from the political establishment, the former mayor being the primary decision-maker. He was known for "always having had a good relationship with the organized religions (*cultes*)," but the decision was without doubt also informed by his wanting to gain votes among the Muslim population.

The process for constructing the section had been simple: The former mayor made the decision after talking to different Muslim groups. There were no official documents or municipal writings on the matter. As the mayor later told me, "It is me who said, 'We put the Muslims there,' that's all."[93]

The Islamic section is located in gravefield 1–18 and is surrounded by a (still low) hedge separating it from the other parts of the cemetery. The graves are situated in the direction of Mecca, though one big gravestone is completely at odds with the others. There was a mistake on the part of the religious representative, who had been confused to exactly where Mecca was. After the first internment, several imams spent an entire Sunday figuring out in exactly what direction Mecca lay. The family had accepted the mistake, the assistant said, because the deceased was not

92 Interview 4 October 2012 with the administrative leader of the civil services and cemetery services and her assistant of the Office of Conservation and responsible for the everyday activities of cemeteries.

93 Interview with the former mayor of Montreuil, 10 October 2012.

much involved in the Muslim community anyway. The divergent grave was seen as a symbol of the fact that the deceased belonged to Islam but with "an individual direction."

The *carré musulman* is aligned with the back entrance of the cemetery so that Muslims can use this entrance. Although it is nowhere mentioned that this is formally the Muslim entrance, my interviewee tells me (with a gesture of secrecy) that, informally, it functions that way, something he personally disapproves of.[94]

Apart from an Islamic section, there are also three Jewish sections, two in the new cemetery (fields A9 and A12) and one in the old cemetery of Montreuil (field 5–1) (Hivert: 2008). A 1.5-meter high hedge surrounds the Jewish sections in the new cemetery, separating it entirely from the rest of the cemetery.

The assistant (once more discretely) tells me that the hedge is paid for and maintained by the Jewish community. The oldest *section Israelite* dates from the 1940s and is composed of several lines of graves that then merge into a collection of Christian graves. It came into being, they thought, because of families buying graves in advance. It occurred spontaneously and was not the result of a municipal decision.

In my conversation with the former mayor, I was keen on understanding how he justifies his decisions. He proved not very interested in the topic of cemeteries, though he is proud of a decision that he has made regarding to a *bail emphytéotique* – a peppercorn rent – a case that achieved national legal status. This case, in his words, "gives continuity to the 1905 law under modern conditions."

This legal case,[95] to which he returned several times in the conversation, involved the decision by the town council of Montreuil to grant a long-term lease for a parcel of communal land to the Federation of Muslim Associations[96] for building a mosque. For the symbolic amount of EUR 1 a year, the federation leased the land for a period of 99 years. If after this period the lease is not prolonged, the city council once again becomes the owner of the soil and all things built on it.

A member of the town council challenged this decision in 2007 on grounds that it violated the 1905 law of separation of state and church, Article 2. The member thus accused the city council of providing for a disguised subsidy of religion.

After a series of legal battles, the Council of State ruled that the town council was justified in derogating from the doctrine of separation of state and church "(…) for the grant of certain aid to facilitate the activities and operation of certain cults,

94 He had asked the Imam why they preferred entering there. The Imam had answered that they were afraid of being harassed by others. My interviewee thought that this made no sense and was an overly defensive reaction, "very much against the spirit of *laïcité*." I rely here on my fieldnotes after a walk over the cemetery with the Assistant of the Office of Conservation, 4 October 2012, Montreuil.

95 CE, 19 juillet 2011, Mme V., n° 320796.

96 This concerns *la Fédération Cultuelle des Associations Musulmanes de Montreuil*.

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where the grant of that aid was in the general public interest and specified by law" (Cianitto/Tirabassi: 2012, 535). According to the Council of State, the constitutional principle of *laïcité* does not in and of itself prohibit the possibility of certain forms of support (cf. Conseil d'État Assemblée, 19/07/2011, no. 320796, second paragraph).

"Why did I take up this battle?" the mayor asks rhetorically. And then he tells me about the strong opposition he faced from the people of the neighbourhood when constructing the mosque. He was also under fire from the extreme right. Locally as well as on a national level, it was claimed that the peppercorn rents violated state neutrality.[97] The mayor explains:

> Well, we have to manage the problems of today in the light of the 1905 law, of its spirit. Back then, we did not have any Muslims (…). The 1905 law provides first and foremost freedom of conscience; second, the Republic does not recognize any religion, nor does it pay the minister of any religious group, with the exception of Alsace. And, furthermore, the Republic guarantees everybody the right to practice their own religion.

"Why have religious freedom if the material conditions for expressing this freedom are lacking?"

In other words, he finds room within the 1905 law to accommodate Muslims' need for a house of worship and to let them catch up.

> And once you have these principles, then come the concrete challenges. How do you deal with cemeteries and mosques? I felt I had to accommodate these religious communities, in this case the Jews and the Muslims, because they are not very well off. If they simultaneously pay for the construction costs and the terrain, that is not going to work.

The mayor is adamant that this should occur within the boundaries of the law.

> Some mayors have constructed mosques in all illegality, justifying them as cultural (*culturelle*) places instead of religious ones (*cultuelle*) (…). They have tricked the law. I think my solution is much better, and it has been recognized by the Council of State. So now it has a legal standing.

But while being very careful about justifying his peppercorn rent as lying within the spirit of the 1905 law, he is remarkably unconcerned with – or maybe unaware of – violating the laic constraints in the cemetery.

97 As the leader of Front National, Marine le Pen argued: "These peppercorn rents … are a disguised form of donation. It is not me who is against this, it is the law." Le Pen quoted by AFP (2011), unknown author, in: Le Figaro 5 April 2011. (My translation).

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I asked him why he has no problems providing for a *carré musulman*.

> For me as mayor – where is the problem? The problem is the number of available spaces in the cemetery. Thereafter, whether they believe in Mecca, Jerusalem, or whatever, that is not our concern.

"But," I insist, "Islamic sections are prohibited." "No, they are not prohibited, and in France everything that is not legally prohibited is permitted", he says.

Then, I explained the prohibition and the political encouragement occurring since 1975.

> Well, I have arranged it as follows. I have argued that if sections existed, it was not because of the wish of the Jews, it was not the result of the wish of the Muslims – it was the Catholic Church that was doing the excluding, before the Revolution. The Catholics did not allow burial of Jews, comedians, drunkards (…). Catholic exclusion lies at its origin.

That surprised me: "Oh, really?" "Yes," he said, "we do not favour discrimination: Whether you are buried in the direction of Mecca or wherever you want, for a mayor this is not important."

I persisted: "Still, it is illegal to say: 'This part is for Muslims'?" [*He interrupts*] "It's just logical!"

With this the mayor justifies the contemporary existence of confessional sections through his concern with treating Jews and Muslims equally, to avoid discrimination. And this is given particular meaning within the historical narrative of previous confessional exclusions by the Catholic Church.

At this point of the interview, I am a bit puzzled as to why he is so easy-going about his provisions. To see how far he would go in adhering to the requirement of neutrality of third parties, I present him with a hypothetical case of a Jewish section and the family of a Catholic citizen who wants to be buried in that section. What do you do in such a case if you have to follow the laic prescription to let the will of family be the main determinant?

> Ah, that would be a catastrophe! Impossible! We've had the problem here before. One day the rabbi comes to see me (…). He tells me: 'I went to the cemetery to pray … and what do I see: a Jew and a non-Jew lying side by side!' Think about it – a non-Jew in the Jewish section. That does not work at all, because now the section is no longer a real section. Well, that is their illusion (*leur fantasme*). After this complaint, we gave them a new section, but the Jews who were buried in the old one remained, because theoretically you cannot exhume them.

In other words, although the mayor's answer is slightly different from my question, he indicates his giving significant weight to the wishes of the Jewish community rather than insisting the cemetery be open to all, everywhere.

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This aligned with what the administrative head of the cemeteries had also answered: She was clear about the fact that the wish of the family was the leading motivation for allocating a grave in a section. However, she continued, "We will explain that, yes, we could put you there, but for the well-being of others, we cannot honour your request." This indeed violates *laïcité*, she admitted:

> Allowing this [burying a Catholic in a Jewish section] would cause a political conflict, big problems with the religious groups. They would get angry and say: 'You are not respecting your promise to us to only bury people of our confession there. There are 50 other places where you can put them!'[98]

Returning to the conversation with the mayor, I was curious to find out what reasons he had for the particular formats of the Islamic and Jewish sections. As he had mentioned, the argument for an Islamic section, "was the freedom for all to bury as they wished (…)." But, I remarked, "What these communities wish for is their own part of the cemetery, in the right direction, with their own entrance and surrounding demarcation." He replies:

> They do not have their own entrance. Others can use the entrance as well. It is not solely reserved for Muslims. Nowhere does it state: 'For Muslims only.' But it is true that it is situated in their corner of the cemetery, so they indeed do not cross the rest of the cemetery.

I asked: "And what about the high hedge around the Jewish sections?"

> Well, [*defensive tone*] what does that mean? We have cemeteries in the countryside with hedges. What do we do there? We have hedges. Listen! Those are just pieces of vegetation, not religious symbols."[99]

I replied: "I have no problem with that, but your laws prohibit it. I simply want to understand how you justify it." "Oh well, listen, in France to prohibit a mayor from doing something, it has to be very serious. A mayor does whatever he wants in his municipality as long as his citizens accept it."

The mayor thus decides what rules to enforce as long as he can publicly defend them.

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98 But, if one day they were to run out of space, they would put a Catholic there. In other words, the promise to the religious communities was a political reservation (*un réservation politique*), she said, not an administrative one. "If we administratively need it, we would use those spots."

99 In my conversation with the administrators (4 October 2012), both said that they were not in agreement with the separation provided for by these hedges. "But they demand it" (referring to the Jewish community). They were unsure whether to see it as an outright violation of *laïcité*.

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I ask, "What would be beyond the acceptable then?" to which he replies:

> Burial without a coffin (…). Muslims, they have to obey the sanitary regulations. Here, we are not allowed to bury someone without a coffin, as is the case in Islamic countries. The rules are the same for everybody, and for a mayor: dead is dead. We also have problems with the gypsies [Roma/Sinti] here, they have a very particular practice: One year after the person's death they come and eat together on the grave. *That* we have succeeded in preventing since it is very shocking for the other families. So, we have our limits. One should not disturb the social customs of the place (*la bienséance*) (…). It is all rather subjective, I know, but we have decided not to allow it.

Furthermore, slightly contradicting his earlier example of the Jewish section, the mayor is keen to note that no exceptions are made for both Jews and Muslims regarding their confessional prohibition of being exhumed. "The law applies to everyone. The rule here is that we remove the remains. We exhume sometimes after 5, 10, or 20 years – or a maximum of 50 years. Those are the conditions of burial."

So, the mayor argues strongly for religious freedom of practice as a central commitment. Granting confessional sections is just "logical" because funeral rites are deemed central to the religious practices of the community in question. This, he claims, in fact follows from the 1905 law (even as I remark that they are in fact illegal in the letter of the CGCT). Yet, other very central funeral practices (prohibition of exhumation, burial without a coffin, the Roma custom) are overruled by a single rule valid for all – arguments about hygiene or public order.

Who then decides what practices are central enough to be accommodated? And what religious practices does the law prohibit?

I ask him about the example of burial without a coffin. In The Netherlands, burial without a coffin used to be prohibited, too. Since the 1980s, however, the hygiene argument has been overruled by the freedom of religious practice. Why does the French law prohibit it and the Dutch allow it? He answers:

> You first take into consideration the way in which the religious community identifies itself and then comes the legal situation. That's not how we do it: It is first the law and only then do we use the freedom the law still allows for.

"But," I countered, "then you should not have any Muslim sections because according to the law here that is illegal."

> Ok, listen, here you're being very exacting about things, I recognize, but you are right! Yet our 1905 law says we should recognize the freedom of religion, and if the funeral rites are a fundamental part of the practice of the religious community, then … So, if you think this is really part of the religious practice, well then, that is the limit that freedom permits you.

I didn't let up: "But, you see, on the one hand, you come at me with the burial law and its constraints, whereas, on the other hand, you answer me with the freedom of religious practice of the 1905 law as the overruling motivation."

The mayor answered: "I understand that this is part of the contradictions. But there is a saying dating from the revolution to the effect: 'It is the freedom that oppresses and the law that sets free.'"

So, there are three main points: First, what qualifies as fundamental to the religious practices and what does not qualify is, as the mayor himself acknowledged, in some cases "entirely subjective." Second, the mayor controls local order and sets the rules. Third, the mayor gives little thought to contradictions. In fact, as I learned further on into the conversation, this seems to be his way of operationalizing *laïcité*.

I inquire what he thinks about changing the law, which would resolve the contradictions in the cemetery while also making his accommodation of confessional sections legal.

> On the subject of the cemeteries, I have experienced very few conflicts, except for that example of the Jews (…). It's all not so difficult, I think. We certainly should not make a socio-political issue out of it. We should not frame this as a matter of *laïcité*. That would serve the extreme right (…). We certainly should not change the law.

Thus, for him, the preferred solution was to leave the letter of the law intact while simultaneously providing for practical accommodations in the spirit of the 1905 law.

> We are nevertheless quite pragmatic, contrary to the image they have of us abroad. (…) We find solutions, while trying to stay loyal to the spirit of the text. And I think there is a consensus. To give an example, Francois Hollande wanted to put *laïcité* in the constitution. Why? That is not necessary. It's already in the constitution, well it's in the Preamble: 'The French Republic is *laïque*.' That is enough. Why put anything else in there? It's unnecessary. We should keep things very simple. (…) *Laïcité*, the moment you add an adjective, it's betrayal. Those who talk about *laïcité ouverte* do so to betray her.

Maybe not surprisingly, he thus dismissed the propositions of the Machelon report as commissioned by Sarkozy, to make confessional sections legal and to reintroduce the private confessional cemetery.

> What a horror, a Catholic integrationist, that Machelon. In his commission he had representatives of his sect. He was for the abandonment of *laïcité*. That is why Sarkozy chose him. But his report is now forgotten. (…) Dead and buried! [*with dramatic gesture*]. (…) It destabilized us completely. He wanted to question *laïcité*. The place of religion (*religion*) is not in the public sphere. He wanted to put it into the public sphere, and we did not agree. It contradicts the 1905 law. (…) Religion (*la religion*) is by principle in the private space.

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"What about private confessional cemeteries?" I asked, to which he replied: "Here, we cannot imagine that, regarding death. No, that is taken care of by a public power."

"Is this thinking part of *laïcité*?" I ask.

> I do not think we have even asked that question before. We have always buried everybody that way. Allowing for private cemeteries – ah, no, that's untenable. You know we chased the nuns out of the public hospital!

I nodded and said, "Yes, but the question is rather why, if there is a public hospital, could there not be a private hospital?" "No," he answers, "being buried is a fundamental right!"

I tell him about The Netherlands, where it is also the mayor who sees to it that everybody gets buried. Nevertheless, there are private cemeteries. He disagrees. "But you see that would violate our tradition, nobody could imagine a private cemetery here. I cannot imagine that anyone would propose something like that in the public debate."

But in this instance, too, the mayor turned out to be little bothered by contradictions. As I later discovered, he promised a Muslim cemetery to potential voters during his recent run for the legislative elections of Montreuil and Bagnolet in June 2012.[100]

> As you know I was the first mayor of France to allow for the construction of a mosque (…), by means of a peppercorn rent. I have been attacked by the extreme right, but we have persevered, and finally the Council of State has agreed with our decision. Thanks to you – thanks to our common effort – all Muslims in France today have the possibility to ask their mayor to provide for a terrain with the construction of a peppercorn rent, which is a great advancement. Now, we should go further. I am committing myself to constructing a large Muslim cemetery for Montreuil and Bagnolet, with at least 3,000 spots, which will allow families to bury their loved ones close by their place of residence. This is – simply put – a matter of humanity and respect. Because I am laic (*laïque*), I refuse any stigmatization toward Islam. Also, I am engaging myself today on your behalf to reject all new laws aimed at stigmatizing the Muslim community. Laïcité is already in the law. There is no need to reopen absurd debates making Muslims the scapegoat.

5.4.3 Rhône d'Alpes/Lyon

In the Rhône Alpes region, the size of The Netherlands and with a population larger than that of Norway (5.5 million), there are eight *départements*, one of which is le

100 See the electoral pamphlet in the article at http://oumma.com/13049/ultra-laicard-jean-pierre-brard-drague-les-musulmans [accessed 6 June 2020], my translation.

Département Rhône (no. 69).[101] The region Rhône Alpes has one of the highest densities of Muslim citizens in France, largely of North African and Algerian origin, with a total estimate of 600,000 (Bilan 2: carrés musulmans, p. 4). About half of them live within the Département of Rhône with as its capital city Lyon ville.

Lyon ville represents France's geographical and cultural center as "the civilized bourgeois exterior of the 'gateway to the South'" (Hussey: 2007). At the same time, it has been – and still is – an extremely racially and socially divided city. It has a large number of poor suburbs, which are physically and socially isolated from the core city.

High unemployment rates hit these suburbs hard in the 1970s because of the closure and subsequent export of auto factories. Furthermore, in 1981, severely impoverished living conditions in HLM housing projects caused the first set of urban riots in the city of Les Minguettes, followed by more violence in the neighbouring suburb of Vénissieux in 1984 and a consequent invasion of armed police forces.

Today, these suburbs are considered to be 'sensitive quarters' (*quartiers sensibles*), to be avoided by police or outsiders. They stand as "symbols of the 'malaise' of the declining peripheries of French cities" (Parvez: 2011a, 294).

Politically, "despite its stolid bourgeois appearance" (Hussey: 2007) and its socialist mayor Gérard Collomb (anno 2020), Lyon has evident links to the spectrum of far-right politics. It was the strategic capital of the Front National (FN) throughout the 1990s and home to a majority vote for the FN in both national and local elections. Furthermore, there remains a strong persistence of 'negationism' in some French Universities, particularly Lyon III (Rousso: 2006, 67–88).

As early as 1970, a professor of literary theory at Lyons II openly denied the Holocaust, stimulating a range of works published on Hitler and the gas chambers. As a public report traces it, negationism[102] first mobilized among right-wing intellectuals with an already established academic standing and became popular at the universities. One of the report's concrete political results was the temporary expulsion from the university of Bruno Gollnisch, a prominent Front National (FN) leader and Professor of Japanese at Lyon III. Adding to Lyon's reputation as the "world capital of negationism" (Hussey: 2007), the late Raymond Barre, mayor of Lyon from 1995–2001, was known for his anti-Semitic remarks in public.

Simultaneously, and adding to the existing tensions, Lyon is "witnessing a marked growth of conservative Islamization vis-à-vis Paris and other urban centers" (Parvez: 2007, 13–14). Propelled by a social atmosphere that heavily politicizes Islam and

101 France is divided in 26 regions. Each region in turn is divided into *départements*.

102 Negationism refers to denying the Holocaust or the gas chambers. With a long standing in both the neo-Fascist and extreme right corners, its legacy goes back to the Vichy era. It has since found resonance with certain small groups from the anti-Stalinist extreme left. More recently, it manifested itself among certain Islamic groups and fringe groups of the Islamic population (Rousso: 2006, 68).

links it to terrorism, working-class Muslim communities are increasingly distrustful of the state and tend to withdraw into their own communities. Add to this the transnational influences of Salafism, which promotes cultural practices that support strict gender segregation, for example, full burqas and polygamous marriage (Parvez: 2007, 14).

Nevertheless, there are important class differences, also reflected in terms of Islam's political organization. More middle-class Muslims in Lyon are rejecting the conservative forms of Salafism and organizing through middle-class Muslim organizations that do not shun state engagement.[103] Tellingly, most Islamic organizations are headquartered near Villeurbanne, not far from Lyon's center – not in the suburbs. Poorer Muslims, living in HLM public housing complexes, are much less likely to participate in Islamic associations, especially when these organizations engage with the state.

Against the backdrop of these racial and cultural tensions we should see the attempts by the *Conseil Regional du Culte Musulman* (hereinafter CRCM Rhône d'Alpes) to obtain more Muslim burial plots in the region of Rhône d'Alpes and what is called the Greater Lyon Urban Community (le COURLY).[104]

The total number of *carrés musulmans* in the entire region is unknown, but under auspices of its president, the CRCM Rhône d'Alpes has researched the matter for the Département Rhône. The outcome of their study (conducted between 2005 and 2007) was seven *carrés* and one to be opened in Venissieux with a total of 300 available graves for an estimated Muslim population of 300,000 (Carrés Musulmans, p. 9).[105] As the study further mentions, "The CRCM Rhône d'Alpes estimates that Muslims in France need more than 600 Muslim sections in public cemeteries" (Carrés Musulmans, p. 2).

In my conversations with the President of the CRCM Rhône d'Alpes and the head of the commission *Carré Musulman du Département Rhône*, I inquired about the goals, the process, and the actors involved.[106]

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103 Yet, they are suspicious of a state that seeks to 'control and curb' Islam (Parvez: 2011a, 2011b).

104 Referred to as Le COURLY, this urban community embodies 57 municipalities. As one result of a general process of decentralization in 1996, the French administration established the Greater Lyon Urban Community (*La Communaute Urbaine de Lyon*), adding a fourth level of administrative territory to the existing three: the region, the *département*, and the town. A *communauté urbaine* is an administrative structure at the highest level of intermunicipal cooperation and is designed to meet the needs of the metropolitan area in a less centralized manner.

105 Of the seven *carrés*, only two are in the intercommunal cemeteries in the city of Bron and the city of Rilleux de la Pape, accessible for the whole population of le COURLY.

106 Interview with the President of the CRCM Rhône d'Alpes, 10 February 2009, and interview with the head of the commission *Carée Musulman du Département Rhône*, 11 February 2009. I would like to thank the latter for keeping me updated over the years. I rely on materials from his private archive.

Both explained that the overall goal of the commission, created in 2006, was to satisfy the increasing need for Muslim sections. Against the backdrop of the local Muslim community and the sacredness of death in Islam, they aimed to inform the Muslim community and burial undertakers about several facets of Islamic burial in a French context. Furthermore, they aimed to make the French mayors more sensitive to the needs of the Muslim community:

> The Muslim community demands the same rights as other citizens, that is, to enjoy equality regarding death, and that means a burial in accordance with their faith ('Les maires ont un rôle central,' p. 1).[107]

Four main goals stood out: (1) to inform both their constituency and mayors about the need to be buried in the ground and the prohibition of cremation; (2) to provide for graves in the direction of Mecca or, more precisely, to position the deceased on the right side facing Mecca; (3) to recommend to families to buy concessions for 30 (or at least 25) years; (4) if exhumation cannot be avoided, to request a confessional ossuary.

In fact, the study explicitly recommends that the municipality of Lyon should create a confessional ossuary where the remains of the bodies can be stored after exhumation: "regrouping the remains of the persons deceased of the Muslim confession" (Carrés Musulmans, p. 11).[108] Furthermore, the study outlines the technical aspects of the construction of the *carré*, how the graves are positioned toward Mecca, and a recommendation on the form of separation of the *carré*. In their opinion, "the decrees propose the use of bushes as a way of demarcating" (Bilan 2: p. 11).[109] Finally, the study requests that public authorities legalize the *carrés Musulmans* and install sections at intermunicipal cemeteries, which would solve a lack of Islamic sections in smaller municipalities.

In a press conference on the matter, they justified their demands in reference to the framework and language of the latest 2008 *Circulaire*, saying this decree

> encourages the mayors (…) to favour the existence of spaces which regroup persons deceased from the same confession. *Laïcité* does not consist of a prohibition of religion, but rather the recognition of the freedom of belief, that is, the freedom to believe or not to believe. The principle of *laïcité* demands strict neutrality of the mayors, meaning they have to respect the deceased according to their religion, whether known, declared, or presumed. If they act in opposition to this, this creates discrimination, which is prohibited by the Code of Autonomous Regions. So, the mayors must be able to accommodate everybody, regardless of their confession ('Les maires ont un rôle central,' p. 1, my translation).

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107 "La communauté musulmane demande les mêmes droits que leurs autres concitoyens, c'est-à-dire une égalité devant la mort, et cela veut dire une mort dans le respect de leur foi" ; my translation.

108 This is contested. Although citizens have the right to have their remains stored in an ossuary (Art. R. 2223–20 du CGCT), this should not qualify as a confessional ossuary.

109 Again, this is a contested interpretation of the 2008 decree.

I asked them how they had proceeded in their demands. After their own inventory of available Muslim burial places, the first step was to formulate a demand for more sections. This was difficult in a French context, where numbers are neither available on religious affiliation nor permissible. So, they decided to take the existence of houses of worship as an indicator, the logic being that 'where there's a mosque, there are Muslims.' The region as a whole has an estimated 173 places of worship, some 50 of which are located in the department of Rhône. The second step involved talking with the prefects of le COURLY to establish a common plan of action. Third, they approached the mayors of the 57 individual municipalities, hoping that agreement on the level of le COURLY might convince hesitating mayors.

To my question whether they met with a lot of resistance, the president of the CRCM responded that this was rare: Most mayors were very willing to listen and consider action, but sometimes concerns with available space stood in the way of creating a parcel. Occasionally, their demands were refused, for example, in the municipality of Chambéry, where the majority of the municipality was willing to construct a Muslim section.

Yet one man, a socialist and former minister, wielded a lot of power and was against Muslim sections. "Not only because he is racist," said the president, "but also because he does not think that favours integration." He formulated the latter's logic as follows: "If we are together in life, why be separate in death?" As the president remarked, people from the left political spectrum were generally less amenable to accommodating religious needs. "Men from the right (*hommes du droit*) have fewer complexes about religion."

He strongly disagreed with the former minister's position. "Not allowing for Muslim parcels is counterproductive. If Muslims wish to be buried here, that means they feel at home." The state or municipalities should play a facilitating role in this process, he thought. But he was very keen on emphasizing the role of Muslims in this endeavour.

The explanation for so few existing *carrés* in France, he said, is first and foremost, "because there has been no demand, simply put." This changed only recently, first because people have started to feel at home and second because they are increasingly becoming aware of their religion. According to the president, this meant exactly the opposite from what is usually associated with repatriation. Islam prescribes burial in the land of death. And burial in France allows them to fulfill the duty to pray and visit the deceased on a regular basis. Furthermore, the lack of resources and organization within the Muslim communities and, in his quite critical formulation, their previous "intellectual laziness" had not helped. Describing himself as 'a man of action' (*l'homme du terrain*), he said: "Here, if you want to get something done, you have to ask for it. (…) Here [in France] we have to *think*." He gave the counterexample of the United States, where society was very open and proactive when it comes to religion.

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I inquired about the role of the CFCM and different regional CRCMs in this process. A widely held opinion is that the national CFCM is quite dysfunctional as a national body in contrast to the regionally active CRCMs. In the president's opinion, the CRCMs provided for a good potential venue of establishing parcels, but, as with everything, "people have to make the change." Thus far, only his CRCM had initiated action. "We are the ones who demands most, who take the most action."

When I confronted him with the statement by one of my previous respondents, a former advisor to the Minister of Interior[110], that Lyon was an exception, and that the CRCMs were in fact merely symbolic, he answered "That bastard!"

I interpreted his strong reaction to this statement as not being taken seriously and undermining what he saw as a potentially effective political tool for Muslims. Did he not agree with the often-heard argument that the CFCM and related CRCMs were merely symbolic constructs, a Gallican effort of the French state to control Islam and domesticate it according to French logic?[111] As one burial agent working in the area Lyon expressed it, using meat as metaphor for Muslim cemeteries:

> We are like chained dogs. They do not give us meat, rather they give us Styrofoam to still our immediate appetite. But that doesn't work. A little bit later we're hungry again. We remain hungry, and that makes us aggressive.[112]

The president was little impressed by arguments about domestication.

> Eh, well, I could care less! I work on behalf of the Muslim community. If they leave us to ourselves, it will never happen. We will never organize! I know the young people do not want the state to help, but we absolutely need to work with the French state.

5.4.4 Summary French Municipalities

The embedded cases described above answer the primary field research questions. For the historical examples, I limit the answer to solutions chosen and the reasons given. And in preparation for the general research question 3 discussed in Section 7.3.3, I summarize here the case findings in regard to the question: "How is secularism used and argued for?"

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110 Interview with the former advisor to the Minister of Interior and Professor at the Imam Teaching Catholic Seminar, 5 February 2009.

111 See Bauberot: 2004 and Bowen: 2007 on the Gallican strand in *laïcité* in relation to the CFCM.

112 Interview with the Muslim burial agent in Lyon, 11 February 2009. This is a close approximation of his wordings, based on my fieldnotes.

Field Research Question (1): What Institutional Solutions Are Chosen?

The Muslim enclosure in the cemetery of *Père-Lachaise* (1857) was a full-fledged section, referred to by some as "the Muslim cemetery." It had a clear demarcation, entrance, mosque, and graves in the direction of Mecca, until 1881. *Bobigny* (1937) was a private cemetery until 1999. The form of governance of the cemetery has changed over time. The first Islamic section in *Thiais* (1957) contained only regular concessions (5 years) that were not in the direction of Mecca.

The contemporary reality in the Parisian cemeteries includes – and has included – a wide variety of confessional as well as cultural sections (e.g., Asian). Currently, *Thiais* contains Asian, Buddhist, Orthodox, Catholic, Jewish, and at least six different Muslim sections. Confessional sections exist in Montreuil, even with a high demarcation (Jewish section) and unofficial private entrance (Muslim section).

Typically, the confessional sections are understood by the lower-level administrators as "regroupings the result of individual choices." Yet, the mayor of Montreuil and the Parisian head of cemetery services are more blunt about their collective dimension. In Lyon, the demand by the commission of CRCM Rhone D'Alpes entails an explicit demarcation around the section (in the form of bushes). They propose giving the confessional section a legal status and suggest Islamic ossuaries as a solution to the demand for eternal grave-rest.

Field Research Questions 2 & 3: What Are the Reasons Given/Issue Frameworks?

The historical material in the Paris region revealed primarily a concern with geopolitical motivations: wars, the role of France as an imperial and Muslim power, and the Gallican motivation of the French government to support a visible and 'good Islam' that can be controlled.

It is hard to know from the secondary sources how confessional sections or cemeteries were publicly justified. Godin justifies the cemetery of *Bobigny* out of an "absolute respect for their religion" and in light of a defense "of the belief in the individual right of conscience." We can infer that legal changes, for example, the 1881 prohibition to demarcate sections, have had some (albeit limited) bearing on the institutional format of provisions on *Père-Lachaise*.[113] *Bobigny*'s form of governance changed over time. A concern with the de-facto management of the terrain by the grand mosque of Paris became problematic only since the late 1980s, when it is 'brought back' into the legal framework. The historical cases show that, at a time when France was trying to establish itself as a 'grand Muslim power,'

113 Under political pressure from the Turkish and Persian embassies, the washing house continues to exist, and the surrounding demarcation remains in the form of a prominent hedge.

orientalism became in vogue and "Islam did not scare yet" (D'Adler: 2005, 11),[114] the public presence of Islam was much less politicized.

In contemporary Paris, the head of the Cemetery Services ascribes the wide variety of existing confessional and cultural sections to four sets of reasons: First, in his narrative, the historical changes in *laïcité* resulted in demands for changes in the burial management, regardless of the factual situation. With the historical transition of an open and communal laïcité (*laïcité commune et ouverte*) at the time of the Napoleonic Decree (1804) toward a more stringent, combative version (*laïcité de combat*) at the time of the Third Republic, everything previously permitted became prohibited. The legislation changed, but not the reality at ground level. This explains the existing contradictions. Today, that ideology is further continued in the burial legislation, which is yet even more out of tune with the contemporary existing demands (*laïcité* and *logique du terrain*).

Second, that administrators continue to provide for them is nevertheless a matter of pragmatic consideration. "As a matter of fact, and also because we are obliged to provide for these sections, mainly because there is a very strong demand." He thinks the solution should be to fine-tune the legal burial framework to factual reality – "put our concept of positive *laïcité* to the test." He does not believe in a private solution. Properly understood, *laïcité* (*laïcité bien comprise*) was a guarantee for equal treatment. Legalizing confessional cemeteries might result in exclusions reminiscent of the Catholic practices before the Revolution. He is very conscious of his position as an administrator rather than a legislator.

Third, administrators regularly overrule their commitment to the neutrality of third parties with that of a humane management and providing satisfaction (professional codes). Both he and the conservator are sensitive to the power of the religious groups that make demands: "We are not going to amuse ourselves by putting the Jew next to the Muslim."

Fourth, the conservator of Pantin furthermore mentions the weight of history – "And today, because these sections exist, we use them" – and her place in the hierarchy. Her account shows that the ideology underlying the 1881 legal changes has consistently contrasted with the actual facts. Since the beginning of *Pantin* (1886), the Jewish population has been given rows of graves making it the 'laic Pantin,' the 'Jewish cemetery.' Yet, this was the result of family regroupings and a system of buying in advance rather than a political decision (*logique du terrain*).

In terms of the dominant frameworks, administrators see the matter as an issue of being pragmatic and providing (consumer) satisfaction (professional codes), the

114 'Bad' forms of Islam were scary – those associated with Arab fanatism and anticolonial resistance. This fear gave rise to the governing strategy of fostering 'good Islam' by co-opting Muslim leaders and the financing of religious institutions, e.g., the Paris mosque and cemetery (Maussen: 2009, 247).

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weight of history and system of *achat en avance* (*logique du terrain*). The different forms of *laïcité* and the various interpretations of the funeral laws (*esprit du loi*) should explain these contradictions and exceptions.

In Montreuil, there are likewise roughly four sets of reasons to explain why sections exist: First, the mayor and administrators apply a certain level of pragmatism: "What is the problem for the mayor? (…) The problem is the number of available spaces in the cemetery. Afterwards, whether they believe in Mecca, Jerusalem, or whatever is not our concern."

Second, several of the mayor's decisions seem to be motivated by a concern with electoral gain and avoiding conflict (see the political pamphlet in which he promises a Muslim cemetery). As in Paris, the mayor is sensitive to the wider political ramifications of his decisions, the possible attacks by the extreme right, and conflicts with religious leaders. Both the mayor and the administrators express their readiness to violate the requirement of leaving all parts of the cemetery open to all, if politically pressured. Yet, similar to the situation in Paris, the administrators are hesitant to admit it. The mayor, however, has less trouble admitting this and uses his professional discretion: "It has to be a very serious matter to prohibit a mayor from doing something." This political sensitivity applies today but was not present historically.

Third, similar to the Paris case study, the oldest Jewish section at the old cemetery of Montreuil resulted from a factual dynamic. This did not require grand political decisions, but rather developed 'organically' because of demands by the families (*logique du terrain*).

Fourth, the mayor's reasoning shows his commitment to practicing religious freedom as a central commitment. Granting confessional sections is "logical" because funeral rites can be seen as central to the religious practices of Muslims. This, he claims, follows from the 1905 law. Furthermore, he is committed to the idea of equity between Jews and Muslims, that is, the need to let Muslims catch up and thus to provide them with the material conditions to realize practical religious freedom.

The key ways in which the mayor justifies his decisions are *pragmatism*, *professional code* (which, as mayor, means electoral gain and discretion, avoiding conflict), *pragmatic logic*, and the *1905 law*. Explicitly avoided as structuring framework is *laïcité,* and he hardly references the burial legislation.

For Muslims in Lyon, the motivation for asking for sections is, first, the Islamic prescription to be buried in the land of death (and the sacredness of death) and, second, a change in demand: the increasing settlement and integration of the Muslim community in the host country (to feel '*chez eux*'). They frame their demand in large part in the language of the 2008 political decree: as a request for equal (individual) citizen rights on behalf of the Muslim community. This is a demand for individual rights insofar as the bearer of the right in this formulation is a citizen (in conformity with the logic of the 2008 *Circulaire*). But it also emphasizes Muslims as

a collective. "The Muslim community demands the same rights as other co-citizens, that is to say, equality regarding death and a burial in accordance with their faith."

Laïcité is referred to as a proxy for secularism. The principle of *laïcité*, they argue, demands strict neutrality of the mayors, the need to respect the deceased's religion. Confessional sections are not only compatible with *laïcité*, indeed the latter requires it.

The main frameworks through which they perceive the issue are that of citizen integration, Islamic prescripts, and *laïcité*.

Finally, as input for Chapter 7: *How is secularism used and argued for?* The administrators in Paris and Montreuil very actively apply the term *laïcité* (as the French proxy), which is the legal, historical, or normative horizon that – strictly interpreted –would constrain the administrators' actions. "If you follow the letter of the law, you cannot do anything." But because burial is also seen as public service and a pragmatic notion, they regularly overrule their commitment to neutrality of third parties with that of a humane management and providing satisfaction.

What holds for all French respondents is that *laïcité* has real-life connotations. The fear of transgressing against *laïcité* forms an inevitable part of the administrators' daily work situation, which is probably why in the course of our conversation they shift from a formal ideological answer to more honest versions. Certain versions of *laïcité* (*laïcité positive, laïcité ouverte*) are seen as justifying violations of the legal text regarding burial. Occasionally, in their reasoning, *laïcité* becomes a more general action-guiding norm of equity, to be obeyed by society at large, irrespective of whether it applies to the public or private sphere. *Laïcité* is furthermore also presented as the foundational narrative of the French Republic.

The head of the Cemetery Services refers to a wide variety of forms of *laïcité* that have developed over time: *laïcité française, laïcité dure, laïcité de combat, laïcité commune et ouverte, laïcité positive, laïcité bien comprise*. In this narrative, the historical changes in *laïcité* result in demands for changes in the burial management, regardless of the factual situation. In other words, *laïcité* functions as an imagined historical actor.

The mayor of Montreuil does not use the term *laïcité* very often, out of fear of politicization. Adding adjectives to *laïcité* would "betray her." Yet, like the Parisian administrator, he draws a similar historical canvas:

> The 1905 law, have you studied it? It is crucial! You have to put yourself in the context of that time. [*dramatic voice*] … Conflicts between the state, a Catholic church that wants to determine everything, and a very anticlerical government (…) Then a time of peace, of dialogue where one returns to the serious matters and makes the compromise: freedom of conscience. Freedom of religion is nothing but a consequence thereof.

Similar to the Parisian administrator, he relies on a historical narrative about Catholic exclusion in the cemetery before the Revolution. This foundational nar-

rative serves both as an explanation and a justification. Confessional sections are basically just a bad thing, resulting from exclusionary Catholic practices. Yet, it is only a matter of justice that today this provision is equally extended to all organized religions.

5.5 Conclusion: Comparative Municipal Findings

After all this discourse, much rich insight has emerged into the actions and public reasoning of burial professionals and Muslims/humanists who deal with these diversity issues on a day-to-day basis. Furthermore, the embedded case studies provide pertinent insight into the relevant actors and processes that led to these solutions.

Table 5.5 summarizes the central decision-makers, initiators, and relevant Muslim/humanist or other interlocutors in each of the embedded cases (further discussed in Chapter 6). Tables 5.2, 5.3, and 5.4 summarize the answers on the 'how and why' of accommodation (further discussed in both Chapters 6 and 7). To avoid redundancy, I refer to the discussions in those chapters, respectively.

By way of summary, I would like to highlight four important findings. First, central to the complaint of the Norwegian humanists (Section 5.3.4), I discovered at the municipal level a set of arguments that can explain why the Church of Norway was given administrative charge of the cemeteries in 1996. This entailed the decision to give the cemeteries to the local church as part of the tasks of the Joint Parish Council, which in turn occurred as part of a larger process of disestablishment and as a way of securing the Joint Parish Council as a relevant local player vis-à-vis the municipality. With this centrally municipal and intertwined dimension of Norwegian state-church politics, I argue, we are now in a better position to understand the 1996 decision.

Second, in all embedded cases across all countries (with the exception of Elverum) I found that burial officials provided a designated area for Muslims in the public cemetery. This was no surprise, insofar as Chapter 4 had already shown that, even in France, there exists a range of confessional sections. However, what this level of municipal analysis exposed is that French *Thiais* is *materially* no different from the Dutch *Nieuwe Ooster*: The *Thiais* cemetery currently provides separate Asian, Buddhist, Orthodox, and Catholic confessional and cultural sections. It also contains a Jewish section and at least six different types of Muslims sections. The policies in the different countries are thus even closer to one another in their responses than expected.

Third, an in-depth historical analysis of the Paris region showed that confessional sections in France do exist, since 1975 – but not because of their political allowance or any public framing of the matter in terms of immigrant integration and finding

pragmatic solutions, which is what the discussion of national policies in the previous chapter had suggested. However, the historical analysis and fieldwork in the Paris region showed that confessional sections and a Muslim cemetery existed long before the 1975 decree. Even more remarkable, I determined that they are not only the result of grand political decisions (as the historical analysis of *Bobigny* and *Père-Lachaise* suggest), they arose from a factual and practical dynamic.

One major example is the way in which a Muslim section rather haphazardly comes into being in *Pantin*: In 1918, the 30th division of the cemetery was allocated for Muslim factory workers to prevent their graves getting mixed up with those of Muslim soldiers! Also, both the Montreuil and Paris case studies revealed the natural existence of family groupings, resulting from a system of 'buying in advance.'

In other words, focusing solely on formal national politics and public reasoning would omit the dynamic reasons that led French municipal agents to accommodate Muslim burial needs. In this light, the French decrees are important as a way of closing the gap between legal prohibition and an already existing *logique du terrain* that has informed burial practices for centuries.

Fourth, nevertheless there are large differences as well as some remarkable similarities in the discursive understanding between the countries studied.

The French downplay the collective dimension of a section, seeing it as a "mere aggregate of individual choices" and presuming that "all places in the cemetery are available to all." More generally, they juggle their words and navigate between formal ideological answers and everyday actions.

The Dutch approach stands out because they have very few problems allowing for collective demarcation. They see the confessional sections as strongly demarcated areas to which – in the case of The Hague – religious leaders can allocate their own people: "To each their own spot." And they justify their solutions by explicit concerns with urban planning and financial considerations. I recall the graveyard director who had no problem honouring the wish of Muslims to put one person in one grave – "as long as they pay for two bodies."

Norwegian respondents stand out because they tend to emphasize 'soft sections' and to rely heavily on an idea of 'individual consecration' as the solution for both Muslims and humanists.

Concerns with secularism are relevant only in the French context.

In summary, and tentatively, I find evidence for national differences in the way in which the burial agents and confessional/secular actors reason and make sense of the solutions provided for. Yet, the national state-church legacies seem to have little relevance for material outcomes. What then explains this material similarity? Second, how are state-church legacies or secularism relevant in the public reasoning of these actors? Here, I refer to Chapters 6 and 7.

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Table 5.2 Summary of all embedded cases in The Netherlands
a) Type of solution and its discursive understanding
b) Reasons mentioned for section and the format
c) Language/issue framework

Municipality/ geographical area	*Solution(s)*	*Why do confessional sections exist? Reasons mentioned for choosing format*	*Terms of reference Issue framework*
Amsterdam	Confessional section in public cemetery Understood as confessional parcel in public cemetery *without* confessional governance, also *some* individualized reasoning. Municipally subsidized washing area Understood as a multi-functional facility	Section is religious right, though we do not distinguish between Muslims. Wish of individual/family should be the leading consideration. Publicly funded to symbolize Muslims as citizens of Amsterdam/integration.	– Equality between religious communities (*kerkgenootschappen*) – Yet, no religious factionalism (*"hokjes geest"*) desired – Immigrant integration – Feel at home (*"thuis voelen"*) – "Rubs" against the principle of state-church separation – Citizen integration – "Compensatory neutrality (*"compenserende neutraliteit"*) *Issue frameworks:* State-church relations, burial law and immigrant integration
The Hague	Confessional section in public cemetery Understood as confessional parcel in public cemetery *with* confessional governance No washing area	Initial justification Westduin; commercial exploitation. Formal interpretation: WIB allows each church community to have its own spot. Islam is not *one* church community.	– "Niche in the market" – Islam is *not* one church community – Religious freedom – Equality (between groups) – Each their spot (*"ieder zijn eigen plekje"*) *Issue frameworks:* Interpretation what is Islam, burial law and commercial exploitation

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Municipality/ geographical area	*Solution(s)*	*Why do confessional sections exist? Reasons mentioned for choosing format*	*Terms of reference Issue framework*
Almere	Private Muslim cemetery Also understood as confessional section (legal expert)	Justification municipality: Adherence to burial law, honour religious freedom of practice and equity between religious communities, in accordance with urban planning concerns (plan of destination). Justification Muslims: Independence, self-governance and secure permanent grave-rest. In line with Islamic custom.	– Equal treatment of Muslims and Jews – Acknowledgment of their religious "feelings" of securing permanent grave-rest – "We can set our own rules" *Issue frameworks:* Burial law, financial and urban planning issue. For Muslims: matter of internal governance, Islam.

Table 5.3: Summary of all embedded cases in Norway

Municipality/ geographical area	*Solution(s)*	*Why do confessional sections exist? Reasons mentioned for choosing format*	*Terms of reference Issue framework*
Støren	Confessional section in public cemetery Understood as "with soft demarcation" Combined with the individual consecration of graves	Follows the logic of the new funeral law (individual blessing). Respect for the other's faith in light of professional role and state church position. Integration of newcomers Balance between divisions of cemetery "that work exclusive" and no sections Large degree of individual discretion Individual consecration of grave allows "Christians to have it the way they want it, without disrespecting others."	– Be prepared for the future – "They should feel at home as we do." (integration) – Consecration as dominant concern – "Respect others' religious needs." Take care of traditions but through an integrated solution – '*Helhet*' "wholeness but we do not all have to be the same." HEF representative: "Respect and dignity," allow Christians their beliefs; churches' administrative dominance is "disrespectful." "At the moment of death you take what lies in front of you." *Issue frameworks:* consecration, professional code (double-hat Joint Parish Council), state church dominance, integration, social democracy, new burial law. Humanist: churches' grip on death.

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Municipality/ geographical area	*Solution(s)*	*Why do confessional sections exist? Reasons mentioned for choosing format*	*Terms of reference Issue framework*
Elverum	No collective section, individual consecration Existing Muslim graves are without form of adaptation. For future demands; no sections, just consecrating individual graves	No divisions in death Equal for all but not allowing divisions under the soil. Afraid of vandalism. Individual consecration of grave allows people to lie side by side.	– Don't segregate in death – Equal treatment for minorities because of state church system "*minoritets rettigheter*" – No sections because serving integration, "*tjene integrasjon I samfunnet*" – "*rent praktisk*" – Then I can be even more practical. – Consecration as dominant concern *Issue frameworks*: consecration, pragmatism, state church history, integration, vandalism, social democratic unity
Høybraten-(Oslo)	Confessional section in public cemetery Publicly funded washing and prayer area	Need to find practical solutions so that Muslims can bury their relatives.	– Pragmatic accommodation – Immigrant accommodation

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Table 5.4 Summary of all embedded cases in France

Municipality/ geographical area	*Solution(s)*	*Why do confessional sections exist? Reasons mentioned for choosing format*	*Terms of reference Issue framework*
Paris historical			
Père-Lachaise: 1857	Entrance, demarcations until 1881 and modified afterward. Graves direction of Mecca.	Geopolitical reasons, honor request from political ally. Format after 1881 negotiated between Turkish and Persian embassy and prefect	*N/A* *N/A*
Bobigny: 1937	Private solution with de facto self-governance of the grand mosque of Paris, until 1999. Then becomes section in an inter-municipal cemetery.	To manifest France as a Muslim and imperial power, honor and control Muslim population. Foster a "good Islam." Bring back within the legal laic framework.	*N/A*
Thiais: 1957	Regular concessions (5 yr.) not in direction of Mecca.	Probably to accommodate the fallen Algerian Muslims who fought for France in the Algerian war of independence, or lack of space in *Bobigny*.	*N/A*
Paris contemporary	Confessional section in public cemetery Understood as a 'regrouping the result of individual choices' Explicitly against private confessional cemeteries	Exists for reasons of historical precedent: 1a) Family regrouping and *achat en avance* (now abandoned); 1b) Previous request from religious or cultural communities by use of political power; 2) Contemporary demand of French families (society) and wish to satisfy this demand. Format: a confessional regrouping the result of individual choices. Format is chosen to confirm to *laïcité* (secure neutrality of third parties, avoid collective demarcations, part of the legal burial prescripts in CGCT). Yet, clearly, religious communities exert influence over format.	– Terms to justify the format: constrained by *laïcité de combat, laïcité dure, texte de la loi de 1905* – Justified by *laïcité positive, laïcité ouverte, in* 'spirit of the law' (*esprit de la loi*), *laïcité bien comprise* – *donner satisfaction* – *la logique du terrain* – *management humaine* – *on ne s'amuse pas á mettre le Juif à côté du Musulman* *Issue frameworks: Laïcité* (of various kinds), pragmatism, professional codes, funeral laws, logique du terrain

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Municipality/ geographical area	*Solution(s)*	*Why do confessional sections exist? Reasons mentioned for choosing format*	*Terms of reference Issue framework*
Montreuil	Confessional section in public cemetery Understood as a 'regrouping the result of individual choices' (by administrators, not the mayor) A Jewish section with a prominent demarcation and a Muslim section with demarcation and de facto (but unofficial) own entrance Against private cemetery but electoral promise for a Muslim cemetery	Exist: for reasons of historical precedent a) Family regrouping (Jewish section result of *achat en avance*) b) Let Muslims catch up (equity) c) Historical exclusion of Catholics is cause for existence of sections d) Mayor decides (political discretion) Format? Wish of individual and/or family should be the main consideration. (Note that the administrators emphasize this, not the mayor.) In reality: affected by the religious community (hedge paid for/maintained by the Jewish community; use of entrance desired by Muslim community).	– Freedom of conscience Religious freedom in light of 1905 law – Equity between religious communities – 'Spirit of the law' (*esprit de la loi*) – For a mayor, what is the problem? – *On est assez pragmatique* – *Question d'humanité et de respect* *Issue frameworks:* 1905 law, pragmatism Professional code (of being a mayor: electoral gain and discretion), *la logique du terrain*
Lyon region Note this concerns the demands and formulations of the CRCM.	Confessional section in public cemetery "Regrouping of deceased of Muslim faith" but with bushes as separation And legalized *carré* Need for eternal grave-rest or at least 25 years Demand for confessional ossuaries	Muslims have started to ask/lobby for them and changing repatriation pattern. Starting to feel at home Sacredness of death in Islam Format? Justified by respect for freedom of belief inherent in *laïcité* Equality in matters of death Strict neutrality of third parties	– Immigrant settlement/ *Sédentarité de la communauté musulmane* – Feel at home (*se sentir chez eux*) – *symbole d'égalité* Equality between communities and freedom of belief) – Sacredness of and respect for death *Issue frameworks:* citizen integration, *laïcité*, and Islam

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Table 5.5 Decision-makers, initiators, Muslim/humanist interlocutors for all local contexts

Municipality/ geographic area	*Who decides on format?*	*Initiator/important actors in the negotiations*
Amsterdam	Decided by municipality and cemetery management (*De Nieuwe Ooster,* DNO)	Initiative Municipality Cemetery management (DNO) and Platform of Muslims in PIBA
The Hague	Decided by municipality and cemetery management cemeteries of *Kerkhoflaan en Westduin* Access on the parcel decided by imams	Initiative municipality and cemetery management Imams of different local mosques and from different Muslim factions
Almere	*Stichting Almeerse Moslims* Entirely self-governed	Initiative *Stichting Almeerse Moslims* Collaboration with municipality
Støren	Joint Parish Council	Initiative Joint Parish Council No demand expressed by Muslim community Active engagement of humanist representative
Elverum	Joint Parish Council	N/A, no process initiated Preliminary decision made by Joint Parish Council. No demand expressed by Muslim community.
Høybraten-(Oslo)	Decided by the graveyard and burial agency, the city of Oslo (*Gravferdsetaten I Oslo*).	Initiative *Gravferdsetaten* Islamic Council *Islamsk Råd Norge* (IRN) and municipality collaborate
Paris Region *Père-Lachaise* *Bobigny* *Thiais*	 Municipal board of Paris (1853). Département de la Seine and Municipal board of Paris (Godin) decide in 1931 (against will of mayor of Bobigny). From 1961 on, the *Assistance Publique* From 1999 on, intermunicipal union.[115] Unknown	 Demand for Muslim enclosure by Muslim leader; Ottoman Sultan Abdülmajid Ordained by Napoleon III in conversation with Turkish embassy Initiated by the *Society of Pious Trusts and Islamic Holy Places* Unknown
Paris Contemporary	Mayor of Paris and *Service des cimetières*	Sections have long existed. Occasional pressures by Jewish or other faith communities. Mayor and *Service des cimetières* negotiate.
Montreuil	Mayor decides.	Muslims demanded, but unclear which group. Occurs at the Mayor's discretion.
Lyon Ville/ region Rhône D'Alpes	Nationally ordained format and section as permitted by the mayor	Initiative *CRCM Rhône d'Alpes*, in collaboration with prefects of 'le Grand Lyon' and municipalities

115 *Syndicat intercommunal de Bobigny, La Corneuve, Drancy et Aubervilliers.*

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Chapter 6: Institutional Patterns of Governance

6.1 Introduction

Chapter 5 amassed a wealth of empirical information. It summarized the solutions found and the reasons given for each embedded case study. Four central discoveries surfaced, two of which are relevant for the discussion in this chapter. First, looking at municipal praxis, countries are even more similar in their material solutions chosen than presumed. Second, a focus on material praxis revealed the centrality of a ground dynamic: *La logique du terrain* played an important role.

Could this similarity in institutional material outcomes be expected based on the state-organized religious models (hypotheses H1 and H2)? What other factors might play a role?

In Chapter 4, I already looked at these questions: Why do so many *carrés* exist in France? Why there is a lack of Muslim cemeteries in The Netherlands and Norway? Here, I would like to conclude that discussion in two stages. The respondent's answers (see the previous Tables 5.2, 5.3, 5.4 in Section 5.5) suggest a set of first-hand explanations depending on each municipal context. Second, to do justice to the complexity of the practical reasoning[1] at ground level, I develop a general analytic understanding of religious governance. Upon comparing case studies, I discuss the main dynamics affecting policy outcomes and the relevant actors involved in this process (see the previous Table 5.5, in Section 5.5). And I gather an even wider set of possible causes: The reasons mentioned can be, but do not have to be, actual causes.[2]

Section 6.2 provides a short description of the institutional municipal pattern. Section 6.3 discusses hypotheses H1 and H2 concerning the material component of the municipal pattern. Section 6.4 reveals the full gamut of possible factors and processes at play in the governance of these group needs, visualized in the Actor

1 *Complexity of practical reason* and *judgment* stem from political philosophy. They refer to different normative arguments at play: moral prescriptions, conflicting with prudential and or realistic prescriptions, and the difficulty of weighing and balancing them. The highest administrator in Paris has to weigh the professional ethical code of humane management while not disturbing the public order (prudential prescription) with a legal prescription that prohibits consulting with religious leaders in decisions concerning burial in a confessional section. This weighing cannot take place in any meaningful way, according to a priori lexical ordering; it takes place in a given institutional context (cf. Bader: 2007a, 90).

2 Respondents might not always know why they choose certain solutions. They might hide, leave out, or be unaware of actual motives. Furthermore, actions can have a multiplicity of causes.

Institution Constellation Chart (Section 6.4.2), which serves as an analytical tool. Section 6.5 concludes with three sets of reasons for similar material outcomes across national contexts.

6.2 Municipal Pattern: Material Similarity, Legal Differences

The following municipal pattern emerges upon comparison of the embedded cases across countries. The most commonly followed strategy in all countries is *public*. In a purely material sense, public officials provided for a designated area for Muslims in the public cemetery, the exception being Elverum. In Almere, the solution entails a private Muslim cemetery, although some consider this to be a confessional section of a municipal cemetery as well (see Section 5.2.3). In this respect, there are no clear indications of a 'French,' 'Norwegian,' or 'Dutch' way.[3]

This changes, however, when we include the qualitative rules governing these sections (i.e., their legal status). When we ask: "Where are sections legally *not* allowed?" all French municipalities become the outliers. Alternatively, the confessional section exists legally only in The Netherlands, where it is differentiated into self- and non-self-governed sections; the latter distinction has a legal basis within Dutch regulations.[4] Private cemeteries, too, are forbidden only in France, whereas in the other two countries they are part of the legal offer (albeit politically frowned upon in Norway).

A third way of comparing takes the discursive understanding of the solution taken into consideration.[5] I deal with that in the next chapter.

The table below summarizes the above-discussed material and the legal policy outcomes among the various countries at all levels of governance. It condenses the information from Chapters 3, 4, and 5. Furthermore, it anticipates the question of the hypotheses H1 and H2.

3 It is, of course, still significant that there are fewer Muslim sections in France than in the other two countries. But such numbers are very informal and probably much higher than the typical 75 reported.

4 The interpretation of Article 39.2 in the burial law allows the particular church community to make decisions about the design, the material form of demarcating that part of the municipal cemetery, in deliberation with the cemetery management and municipality. Interview with legal advisor, 10 August 2012.

5 A discursive understanding is not disconnected from a legal reality, but they are of a different quality. What the burial agents say about the solutions provided for is not *just* a matter of discourse. They often provide a justification while referencing a political reality, e.g., the decision-makers in Amsterdam know that a 'multifunctional facility' is a more politically correct way of describing the Islamic washing facility.

Table 6.1 Institutional policy outcomes (material, legal) specified at three levels of governance

Countries	**France**	**The Netherlands**	**Norway**	**In line with standard model:** *Laïcité*, pillarization, establishment?	**Heterogeneous model:** improvement?
Legal framework	Prohibition of confessional section and cemetery	Confessional sections and cemeteries are a legal group right.	Undefined for sections Legal right to cemeteries No legal right to neutral ceremonial room	Yes. Legal outcomes reveal national differences fitting expectations H1.	
National existing provisions	Existence of two Muslim cemeteries and range of Muslim sections	Many confessional sections, only *one* Muslim cemetery	No Muslim cemetery, range of confessional sections Few neutral ceremonial rooms	National differences less clear for material provisions Why so many *carrés*? Why Muslim cemeteries? Why no Muslim pillar? Norway establishment: yes. Why no Muslim cemetery? Why municipal responsibility *before* 1996?	(FR) Yes. Gallican element would help anticipate sections and Bobigny. (NL) Partially. Removes expectation of a pillar, but does not predict lack of Muslim cemeteries. (NO) Unclear. Is difficult to formulate expectation of establishment.
Municipal practice	Paris, Lyon, Montreuil	Amsterdam, The Hague, Almere	Oslo, Støren, Elverum		
Institutional reality Material Legal	Material: Confessional sections have long existed, similar to Dutch. Legal: sections do not exist.	Material: Confessional sections, one Muslim cemetery and public financing of washing-house Firm legal section: with/without confessional governance.	Material: Confessional sections in most public cemeteries No explicit legal status	Material: No national differences No relevance of state-church legacies Relevance for legal dimension Here outcomes fit expectations	

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6.3 Hypotheses H1 and H2

Let us now examine these legal and material municipal patterns and link them to the hypothesis from the Introduction. To avoid redundancies, I refer to the tables in Section 5.5 for the relevant reasons given by the central actors involved:

(H1): If we base our understanding of the national state-organized religion models as 'strictly secular' for France, as 'pillarized' for The Netherlands, and as 'established' for Norway, we might expect France to express an unwillingness to accommodate Islam in any way that compromises the neutrality of the public sphere; that The Netherlands would find some form of pillarized Islamic set of institutions: group rights for all, a large number of Islamic cemeteries, and Islamic sections in public graveyards; that Norway would conclude that the Lutheran Church continues to be relevant as the privileged denomination, extending rights and facilitative services to other confessional and secular groups as part of that privilege.

(H2): If we base our conception of national models on a more heterogeneous version, we might expect to find different ideological traditions within a country's repertoire which come into play on different issues and vary over time. Yet, we should still be able to identify policy responses in one country that are absent in another (i.e., there would be true 'national' differences). These differences could be plausibly linked to state-organized religious regimes. We conceptualize French relations as a combination of Gallican, associational, and strictly secular scripts (Bowen: 2007, 2012); those of The Netherlands as a combination of 'principled pluralism' (Monsma/Soper: 1997) and a secular tradition (Maussen: 2009, 2012); those of Norway conceptualize according to its state-organized religious legacy as entailing 'establishment' (the remaining Lutheran hegemony), 'compensatory evenhandedness' (compensation toward other minorities), and (municipal) disestablishment schemes (Breemer: 2014, 2019).

French Embedded Cases

From the interviews depicted in Chapter 5, three main sets of factors help to explain why so many Islamic sections and cemeteries exist in France:

1) Logique du terrain: A ground-level praxis has provided for confessional and cultural sections over time, in particular for Jews. Because these exist, and because they are materially embedded in the physical contours of the cemetery, decision-makers (also) provide them for Muslims today. Historically, groups (or families) have requested to be buried next to one another. Because of the previous system of buying burial plots in advance (*achat en avance*), families bought up whole rows of graves. Thus, these sections arose "naturally." This pressure is being felt again today. Religious representatives put pressure on the administrators to abide by their burial wishes. They also get their way in terms of special hedges and entrances (e.g., Jewish and Muslim communities in Montreuil).

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2) Professional codes: These lead the burial decision-makers to avoid causing a public disturbance: "I am not going to amuse myself by putting a Jew next to a Muslim" (Paris contemporary). They stand up for a humane management even if this violates laic guidelines (Paris contemporary). Or they simply want to be pragmatic[6] and use their professional discretion: "For a mayor, what is the problem?" (Montreuil). The mayor has to bury his citizens and satisfy his electorate.

3) Alternative regimes: These overrule the burial regime. Decisions are justified by referring to certain versions of *laïcité*: "open," "positive," "well understood" (Paris contemporary). Alternatively, in the case of the mayor of Montreuil, accommodating Muslims is reasoned to be in line with the 1905 law, in order to provide the material basis for their religious freedom of practice (following from freedom of conscience). The national decrees (1975, 1990, 2008) allow Muslim sections based on a concern with immigrant integration that overrules laic guidelines. Yet, in the embedded case studies, only the Muslim representatives in Lyon mention this as an argument. Of the existing Islamic cemeteries, I investigated only Bobigny. Presumably, this was put in place because of Gallican motivations (control and support).

As to the hypothesis H1: A standard state-organized religious legacy (*laïcité*) plays an important role in determining outcomes.

I was unable to confirm this statement for H1. The existence of so many Muslim sections and the Muslim cemetery of Bobigny through 1999 is not conform with the expectation of the unwillingness to accommodate Islam in any way that compromises the neutrality of the public sphere.

That policy outcome better fits the expectations based on H2. There, both the Gallican element and that of associational freedom could lead one to believe that the French state would support this Islamic provision (as well as want to control it). The descriptive powers of the internally heterogeneous model have thus improved in this example.

Can we better *explain* outcomes with a heterogeneous model? I will hold off my final answer to this question until the discursive analysis in Chapter 7. Possible proof would involve showing that decision-makers appropriate the state-church legacy in different ways in the different countries.[7] And it would involve showing that the scripts have a systemic and/or historical dimension.

An initial answer to that question is that the inferred motivation for the Muslim cemetery of *Bobigny* was indeed that of colonial celebration and (sanitary) control of its Muslim subjects (the Gallican element). Second, *part* of the reasoning of the mayor of Montreuil indeed fits Bowen's script of associational freedom.

6 In my summary here, I have included pragmatism as part of burial professional codes.

7 I say 'possible proof' because discursive relevance does not always imply explanatory relevance.

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The Dutch embedded cases: Why are there almost no Islamic cemeteries, despite such a religious evenhandedness concerning burial legislation? Why do they finance the Islamic washing facility in Amsterdam with public funds?

The Netherlands counts around 267 Jewish cemeteries and an additional 2,233 other confessional cemeteries (see Table 4.2 in Section 4.2). The reasons for the absence of Muslim cemeteries are said to lie in a lack of financial and organizational resources on the part of Muslims, their unwillingness to assume the large administrative burdens, and the high percentage of repatriation (90%).[8]

The 'successful' case of Almere, however, revealed that financial obstacles may, but need not, be a concern. The degree of organization and extent to which Muslims are well informed mattered. As their main motivation for establishing a private cemetery, Muslims in Almere mention the desire to be independent, to "set our own rules," and to secure permanent grave-rest in accordance with Islamic guidelines. They benefitted in the process from a willing municipality and specific urban-planning and financial considerations.

The reasons mentioned for financing the Islamic washing facility with public funds in Amsterdam are a concern with citizen integration, despite state-church separation.

Regarding hypothesis H1: A state-organized religious legacy plays an important role in determining outcomes. I was unable to confirm this statement for pillarization. There are no signs of an Islamic pillar.

Relying on a more heterogeneous model, as was central to H2, removes the expectation of a pillar, so in that sense it was an improvement. Yet, the constitutive elements of the heterogeneous model (separation and principled pluralism) did not change much in terms of the expected institutional outcome. We would still anticipate a wide variety of collective provisions for Muslims, which of course exist in the form of legally well-anchored confessional sections. But the constitutive elements of the heterogeneous model did not better anticipate the *absence* of Muslim cemeteries. This is more of a puzzle in the Dutch context than in the Norwegian one, given the vast numbers of confessional cemeteries in The Netherlands.

As for the financing of the washing facility, the separation element did not help to anticipate this outcome. But, as we will see, it did help anticipate which issues were discursively relevant.

In sum, internal factors of governance mattered most in the absence of Islamic cemeteries. This involved the repatriation behaviour of Muslims, on the one hand, and their willingness or capacity for organizing themselves, on the other hand. I explain the public financing of the washing-house in Amsterdam by a concern

8 Interview with the President of the Association for Islamic Burial, 9 December 2008.

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with state-church separation that is overruled by concerns with citizen integration (alternative regime).

At this point in the analysis, I find that the more nuanced model does not better explain the discrepancy between the legal burial guidelines and actual practice. Rather, factors of internal governance and alternative regimes matter most.

Was the reformulation of the standard model then without merit? See Chapter 7 for my comments.

Norwegian embedded cases: In the Norwegian context, I inquired into two contrasts: First, private Muslim cemeteries in Norway represent a legal option that is not exercised. Second, why did the Norwegian state give the church charge of the public cemeteries in 1996 at a time of increasing pluralism?

Starting with the first question: could we have expected this based on the characterization of the standard model as 'established'? In a sense, this is the case: The lack of Muslim cemeteries could be explained against the backdrop of the financial context, in which the public Lutheran/public cemeteries are paid for by the public budget.[9] Yet, Muslim or other registered communities do not receive compensation for the expenses of this public item. The municipal expenses for the maintenance and construction of new cemeteries are not reported as expenses made on behalf of the Norwegian church. Such an explanation would confirm the privileged role of the Lutheran Church, although it would leave the 'evenhandedness component' rather weakly realized. 'Establishment' thus seems to be a partially correct description and anticipation of a lack of Muslim cemeteries.

But it is not necessarily the correct (or only) explanation. The answers and considerations of Muslims confirm this. In Oslo, Muslims emphasized that the public offer for collective sections is good enough. Further reasons mentioned for not following the Jewish example were a lack of financial and organizational resources.[10] There is an unwillingness to take on the large administrative and regulative burdens that come with getting permissions for a cemetery. (French Muslims also argued this way.[11])

9 Yet, these costs are not calculated into the sum of expenses made on behalf of the Norwegian church. The sum of all state and municipal spending on the Church of Norway is used as a baseline to calculate the allowance per member of each religion or secular minority. Since 1996, belief or life-stance communities receive a state and municipal compensation per member. In other words, unlike its commitment to a full evenhandedness in other domains, other religious or life-stance communities do not receive compensation for this set of public (cemetery) expenses.

10 I base this on interviews with the Representative from Al-Khidmat, 29 April 2009 and the Secretary General of the Islamic Council of Norway, 27 July 2009.

11 In France, this is not a legal option, but there too Muslims themselves do not prefer this as a solution because of possible financial and organizational burdens, see Hakim: 2005, 104.

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Furthermore, the relevance of internal factors of governance becomes visible if we compare them with another minority within the same state: Early on, the Jewish minority in The Netherlands sought to construct their own cemeteries, leading to 267 Jewish cemeteries. And even in Norway, where Jews were only formally allowed since 1851, there are nevertheless three Jewish cemeteries. This is telling, considering the total of only 15 confessional graveyards beyond the Lutheran/public offer. In other words, in neither country are there any Muslim cemeteries, although they are legally permissible in both. On the other hand, there are Jewish cemeteries in both countries.

In sum, the absence of Muslim cemeteries must stem from the internal governance structure of the Muslims themselves. Explaining the lack of Muslim cemeteries through the lens of establishment (external factor of governance) fails to properly respect the internal factors of governance.

The second question tried to understand why the Norwegian state gave the church charge of the public cemeteries in 1996. That legal act was perceived to contrast the commitment to increasing pluralism and evenhandedness toward religious and secular minorities. Although the standard model seemed a good predictor of this fact, along the line of 'established religion states want to maintain their hegemony,' it was nevertheless less precise for explaining institutional change.[12]

In this example, I have worked backwards, inferring an explanation for the 1996 change from interviews and literature.[13] Second, I traced this element more systematically back in the history of Norwegian state-church relations (see Section 3.3.3). This served to explore whether it constituted a well-established type of reasoning – or the idiosyncratic reasoning of a specific public official. Then I added that explanation to the model: 'municipal disestablishment' or more elaborately: '(local) disestablishment of the church from the municipality with the aim of establishing the local church among the people.'

If my analysis was correct, I should have improved the explanatory power of the heterogeneous model.

Yet, as a descriptive device, it proved hard to derive an institutional prediction, because terms like 'establishment' and 'disestablishment' are vague and require much more specification to be descriptively useful. At the least, they require the specification of the level of society. Over the last decade in Norway, a process of

12 If the standard model can explain why the church is in administratively in charge of the cemeteries since 1996, how can it explain the situation before 1996, when formally the municipality was in charge?

13 Interview with the Former Director General of the Department of Ecclesiastical Affairs, 1 November 2012. Alsvik (1995, 111) makes a similar argument.

national and constitutional disestablishment has occurred, while strengthening local church establishment.

Furthermore, disestablishment without a specified national institutional context could be understood as separating the link between cemeteries and church (separation according to a Dutch or French logic).

In this Norwegian example, however, 'separation' is understood as separating the *function* of local state from that of the local church by giving the parish full charge of the cemeteries. This is indeed a form of administrative separation, albeit one that still keeps the financial and ownership functions intertwined.[14] Furthermore, it explicitly aims to strengthen the position of the local Lutheran Church by "creating identity in the people" (Innst.O.no.46: 1995–1996, p. 2).

In sum, the rather heterogeneous model I suggested was not much of an improvement for anticipating the Norwegian municipal and national policy outcomes. Yet, it did offer improvement in explaining the 1996 change and preventing an understanding of that change through the lens of establishment. More than anything, the 1996 funeral act was the effect of *municipal-church* politics, rather than *state-church* politics. Second, maintaining an important local role for the church occurred through *disestablishment*, rather than *establishment*.[15]

If we combine the two sets of arguments from Chapters 4 and 5, the 1996 funeral act now makes sense as a further 'disintertwinement' (or disestablishment) of local church and municipality. At the same time, it confirms – or for the moment at least does not challenge – the wish of a national political majority to hold on to the church as an important cultural/value foundation for the state's national and local projects (establishment).

6.4 Reasons for Accommodation: Multiplicity of Factors and Means

In what follows, I step back from the particular country and municipal case studies and return to a general picture of the governance of the burial needs of these groups. Here, the purpose of the discussion is more general and analytical: I discuss for all embedded cases the observed dynamic affecting policy outcomes – that of minorities making claims and the local authorities trying to find solutions. (I rely especially on Table 5.5, Chapter 5.)

Generalizing from these empirical findings, I return to Bader's governance framework and his focus on internal and external factors of governance, both of which

14 The parish legally owns the graveyards, yet the municipality pays for them. It is a bit of a halfway house.

15 We can, of course, also nuance our conception of establishment as entailing (1) a control dimension (2) a support dimension, and (3) political and symbolic alliance dimensions.

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can be seen top-down and bottom-up. But I also include elements of Scharpf and Schmidt's actor institutionalism into Bader's explanatory framework.

I propose an actor constellation chart to visualize this complexity. Using this heuristic device, I discuss the relevant external factors of governance that can bear on policy outcomes and conclude with three sets of reasons that can account for similar material outcomes across national contexts in this study.

6.4.1 The Institutionalization of Minorities: Internal vs. External Governance

Bader conceptualized the institutionalization of religion or minorities as a "two-way and conflictive process" (2014, 1). In most of my case studies,[16] the construction of Muslim sections or Islamic cemeteries indeed involved consultation processes between states (or in The Netherlands private cemetery owners) and Muslim/humanist interlocutors. Both sides had to adapt the rules and regulations – or even invent new ones. Alternatively, formal rules are left in place but accommodation occurs nevertheless.

On the Muslim side, imams, European fatwas, or regional representative bodies (CRCM Rhône d'Alpes) played a role in sanctioning certain practices and in informing their constituency of the permissibility of burial practices within an immigration context (internal governance top-down).[17] Moreover, it proved crucial for this institutional domain to understand the bottom-up behaviour of groups (internal governance bottom-up). This included both the changing repatriation pattern as well as the desire (and pressure) of confessional/cultural groups, or families, to be buried as a collective.

On the part of the state or public authorities, I observed a set of actors (mostly municipal agents) who play a role in this institutionalization process, as well as relevant private actors. This was most pertinent for the Dutch context.

Dutch cemetery owners play an important role in the decision-making and the form an Islamic section takes. This is strongest when the ownership is private (Muslims Almere), but it also holds for independently held forms of municipal ownership (Amsterdam and The Hague).[18] This allows for a wide diversity in regulations (or in some cases the absence thereof). Second, it results in a larger sensitivity to market forces and – I would presume – a more accommodating attitude

16 This is true, with the exception of The Hague, where the initiative for Islamic divisions in the 1980s came entirely from the municipality. It was likewise the case in Støren.

17 Should Muslims repatriate or be buried in the host country? Is the burial of men and woman in one grave allowed? May the remains be reburied after a certain time period? (see the Oslo case study).

18 The 'independent municipal' cemetery manager (*gemeentelijk verzelfstandigd*) is a public actor with a large degree of independence and financial responsibility. He operates it as a not-for-profit business.

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toward religious minorities.[19] Dutch cemetery owners must run their cemetery with an eye toward profit – or at least toward not losing money. Instead of their becoming exclusionary – the fear of many French burial professionals – this can work to the benefit of religious communities. Private cemetery owners have no interest in being too restrictive. In the words of one Director of a Catholic cemetery, "That just costs money."[20] Several Muslim sections exist in Dutch Catholic cemeteries.

My research confirms Døving's (2005) argument that private burial agents are important to explaining the smooth integration in the Norwegian burial domain, regarding religious burial rituals (washing, time of burial). Being private agents, they are more flexible than public institutions.[21] Also, in France, a private burial undertaker who is well connected to mayors with an Islamic parcel in their municipality is a determinant factor. Through their lobby, families are able to bury their family member in an Islamic parcel when their own municipality does not have one.[22]

Yet, I found the role of private actors to be less important for the decisions over the spatial and institutional aspects of a burial (cemeteries, parcels). In our study, these private actors did not influence the form and solution in the cemetery, with the exception of Al Khidmat, Oslo's Islamic burial agency, which has a dual role.[23]

Overall, if we look at the processes and relevant agents, my material indicates a more proactive role by local governments in The Netherlands and Norway than in France. Yet, it is hard to generalize for all of France, where there is a tendency to downplay existing provisions. Probably many more French mayors have provided for sections without giving it much publicity.

In Amsterdam, The Hague, Støren, and Høybraten (Oslo), initial action comes from the municipalities. In Almere and the Lyon Region, Muslims themselves are the initiators and claimants. In The Netherlands, cemetery owners (private or public) have an important initiating role.

In Norway, the Joint Parish Council initiates action and makes the decisions in close cooperation with the municipality. In Oslo, the arrangement is slightly different because *Gravferdsetaten* operates with more independence from the Joint Parish Council. Remarkably so, the process for constructing a section was possible in

19 This is a question for further empirical research.

20 Interview with the Director of the Catholic Cemetery, The Hague, 4 December 2008.

21 For example, constraints from Norwegian public work hours to bury on Sunday are pragmatically solved by giving the burial agents the keys to the hospital for the ritual washing or use of the cemetery (cf. Døving: 2005, 116). Furthermore, the leadership of the Norwegian Ullevål hospital decided to build a neutral ceremonial room for ritual washing – without Muslims even asking for it, see Døving: 2009.

22 Interview with the burial undertaker, Lyon, 12 February 2009.

23 As addressed later, this functions as a private company and Muslim representative organ.

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Støren without any claims on the part of Muslims. Only the humanist representative showed an explicit interest in discussing solutions.

In Lyon, Muslims themselves were initiators. Their lobby involved convincing mayors at the level of le COURLY, which includes 57 municipalities as well as more targeted action in the department Rhône d'Alpe (69) and the city of Lyon.

Collective sections had historically been present in Paris and Montreuil, so that extending this provision to Muslims did not require explicit lobbying. The mayors in Montreuil and Paris were the primary decision-makers, representing the political establishment. Furthermore, the chef of the *Services des cimetières* (in Paris) had an important decision-making role together with the different conservators.

Muslim interlocutors: Muslims in the Lyon case study are represented by the CRCM Rhône D'Alpes. Its former (and later reelected) president and initiator of the burial research project was a leader within the UIOF (*l'Union des organisations islamiques de France*), a youth-orientated and more hardline Muslim organization founded in 1983.

Dutch Muslim representatives vary greatly on the matter of burial. There is a formal Islamic Burial Association, which has operated since 2005 (*Stichting Islamitisch Begrafeniswezen,* IBW), but apart from a representative and informative role, it has not been very consequential for the existing public and private solutions. In the Amsterdam case, a platform of large and small Islamic groups, Sunni as well as Shia, collaborate.[24] In The Hague, the different Sunni, Shia, and Ahmadiyya groups communicate individually with the municipal cemetery management.[25] In Almere, Sunni Muslims largely of Suriname descent decide on the rules in the cemetery.

In the Norwegian context, the role of two separate actors coincides: The Norwegian Islamic Council (IRN) is the main representative organ at the national level and is consulted on matters of burial. But Islamic burial undertakers play an equally important role: Since 2007 *Al Khidmat* has had the authority to speak on behalf of Muslims on matters of Islamic burial.[26] As a formal member of the Islamic Council (IRN), consisting of Sunni Muslims, it operates on a status equal to mosques, thus playing a dual role of private company and Muslim representative organ. As seen in Døving's case study on Høybraten, other Muslim representatives are also sometimes involved in the advisory process. For example, the imam in the Høybraten case

24 This includes large organizations like *De Unie van Marrokkaanse Moskeen in Amsterdam en Omstreken* (UMMAO), *Milli Görüs Nederland*, *Diyanet*, and other, smaller Muslim groups like *Stichting Fatima Al Zahra* (representative of Shia Muslims) and *Ahmadiya Lahore* (ULAMON).

25 I have no information which Muslim groups were part of the initial negotiation process. Yet, currently, each group talks with the cemetery management separately.

26 This I mean regarding political administrative matters, not religious interpretation. Interview with the Secretary General Islamic Council (IRN), 27 July 2009.

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study comes from the Islamic Cultural Centre, a mosque belonging to the Deobandi movement.

In summary, the focus on multiple actors in Bader's governance framework and Scharpf's (multiple) actor institutionalism proved applicable to this study. Accommodation is not merely the result of national intent (structure of laws and regulations) but can result from the actions of local governments or nongovernmental actors. Notably, the role of private actors holds stronger for a country like The Netherland, where cemeteries are privatized to a greater degree.

What has also become clear is that these intentional structuring mechanisms can be layered between levels of social reality. The figure below shows that they can come from a transnational, national, regional, or municipal level – or even from the familial level. As a result, different means of governance ensue, beyond formal rules and laws (more on this later).

As for Bader's description of the institutionalization of religion as a two-way "conflictive" process, I can confirm its two-way nature. Nevertheless, I found little evidence of conflict. Only the Amsterdam case shows rivalry over how to design an Islamic parcel, the reason why the Surinamese-Pakistani organization *Stichting Welzijn Moslims* left the platform.[27] Collaboration with this group failed furthermore in Almere. In the Oslo region, there is a tacit understanding that Ahmadiyya are buried in the cemetery of Alfaset. The burial agents of Al Khidmat will not assist them with their services because they are not recognized as Muslims. But this does not seem to lead to any real conflicts.[28] In the cemetery in The Hague, there are explicit separate sections for Sunni and Shi'a Muslims as well as Ahmadiyya, and the respective groups can refuse access to nonmembers. Again, no conflict leading up to, or as a result of, this solution is known.

6.4.2 Actor Institution Constellation Chart

Above, I summarized the main dynamic and actors affecting policy outcomes for all the embedded cases. What needs to be included for a fuller understanding of the policy outcomes are the external (structural and cultural) factors.

In summary, I propose the following descriptive heuristic, which integrates elements (1) from Scharpf's actor-centered institutionalism (a focus on multiple actors and processes); (2) from Bader's governance approach (a focus on internal and external factors top-down and bottom-up); and (3) from Schmidt's discursive

27 The organization thinks that only Sunni Muslims are true Muslims. Therefore, the section should be accessible only to Sunnis – or at least have a division between the Sunni and the Shia sections.

28 Interview with Al Khidmat, 29 April 2009.

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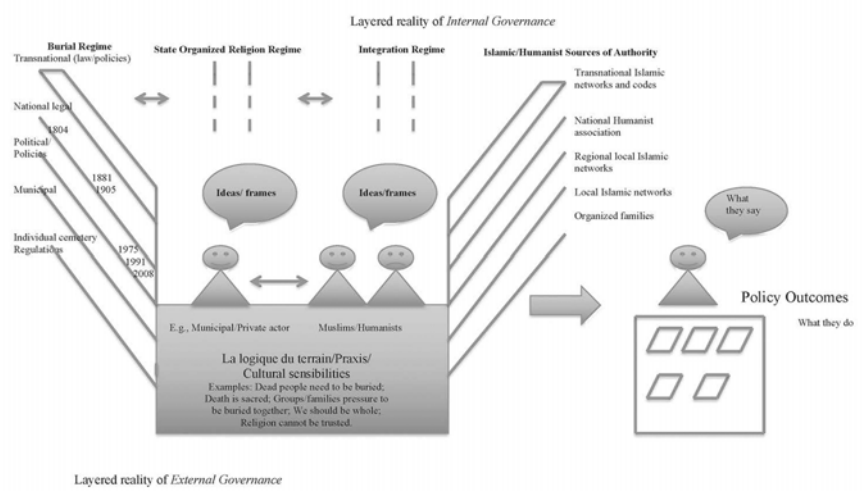

Scheme 6.2: Actor institution constellation chart.

institutionalism (institutions visualized as concrete structures and as constructs in the mind of the actor).

On the right side of the chart, I put the respondent/decision-maker and that person's discourse ('what they say') and action ('what they do'). From this outcome, I reasoned backward to determine what processes played a role and what actors were involved (in accordance with Scharpf). I distinguished four layers of social reality: policy process, institutional regimes, praxis, and a discursive level (relying on Van Engelen: 2000, 6).

The arrow and actors portrayed in the chart are an example of (1) a policy process: an exchange between the group's own representatives (Muslim/humanists) and relevant burial decision-makers. Each party makes their burial demands or formulates an institutional response in light of (2) a range of institutional regimes or other sources of authority. The chart shows four examples: burial regime, state-organized religious regime, integration regime, and Islamic sources of authority. These proved most relevant in the answers of my respondents across national contexts.

The rules or scripts emerging from these institutional regimes (or Islamic scriptures) are layered. There can be various intentional steering mechanisms at the transnational, national, or local level. A good transnational example is the repatriation behaviour of Muslims from Morocco.[29] That, furthermore, implies that the

29 Repatriation is steered here by a transnational institution and the availability of an insurance policy obtained at birth (apart from local customs and family rulings). When parents open a bank account

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modes or means of governance can differ, entailing coercion by means of hard laws, but also political encouragement providing incentives. Or they can include rules of local religious leaders who try to alter a social practice of repatriation.

Then, there is (3) the level of praxis. I placed the potential role of cultural sensibilities on this level and the *logique du terrain* (addressed later on).

Finally, the figure visualizes how the institutional regimes are both concrete structures as well as ideas and frameworks in the mind of the agent. This points to (4) a discursive level. In the public discourse of the burial agent or minority, we see how they make sense of a given burial demand or need. Typically, professional discourse expresses certain key principles and values (equity, freedom, respect) that can come from a variety of sources. But discourse is also amenable to change: Influences from the larger society (a crucial event, a media controversy, or different discourse alliances) can lead to a reframing of the matter and thus a different regulation. At the microlevel, the agent can reinterpret a given institutional script and thereby alter the regulations. This is addressed in the next chapter.

Leaving this general picture of governance, what factors explain similar material responses despite large legal burial differences? I suggest a 'multiplicity of factors' and a 'multiplicity of means':

(1) *A variety of institutional factors can overrule legal burial guidelines.* Cemeteries are the object of a wide variety of regulations: urban planning, public health, and rules for commercially exploiting burial services.

In several municipalities in the various countries, considerations with immigrant integration prevail over concerns with state-church separation or burial guidelines (e.g., France's administrative allowance or the public funding of the Islamic washing-house in Amsterdam). The fact that people perceive confessional sections as an integration issue can also – negatively – result in their opposition because of anti-immigrant sentiments or Islamophobia. My cases did not show this, but Y. Klaussen (2005, 220) talks about it in the case of Denmark.[30]

In the Dutch context, two regimes proved relevant: urban planning and commercial exploitation. It is a stereotype to say that the Dutch always talk about money. But in this study, it proved a consequence of the privatization going on in this domain and the commercial exploitation by 'for-profit' companies or private cemetery

for their newborn in a country like The Netherlands or France, they are offered a set of provisions, like repatriation of the body to Morocco in the case of death (cf. Dessing: 2001, 161). This links the newborn automatically to the state of Morocco. For Turkish Muslims in The Netherlands, the mosques make these arrangements. In Norway, Døving (2005) discusses how Pakistani funeral committees (*begravelseskomitées*) assist the families with the burial process. See Section 4.2.3.

30 My material contained suggestions of anti-immigrant motives, for example, in the reasoning of one central figure in municipality of Chambéry (Section 5.4.3).

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owners. The exposure to market forces is felt much stronger by Dutch cemetery owners than elsewhere.[31]

Apart from the possible effect of a variety of institutional regimes, the set of external or internal factors of governance can be layered and change over time. So, if we look at the chart and recall the French situation, we note that the burial regime placed on the left side of the graph entails burial regulations at a variety of levels.

In this study, it was relevant to distinguish national legal and political from municipal practice. And we furthermore note how this is marked by changes in law or policies over time (for France, indicated by the years 1804, 1881, 1905 along the national legal line[32]) and the political decrees of 1975, 1991, and 2008.

Note that I also included a transnational level, though in terms of the external rules of governance this was of lesser relevance in this study. Yet, the transnational level mattered for the internal burial behaviour and regulation among Muslims. Muslim demands are formulated in respect with internal rules about burial in the context of immigration. Those can involve (transnationally) European fatwas (see the Oslo case study) or, for example, the existence of burial insurance issued by the Moroccan state. It can also include decisions of national or regional Islamic networks (e.g., CRCM Rhône d'Alpes and national representative bodies), local imams, or even the pressures of groups of families (Paris contemporary).

2) *Multiplicity of means.* The case studies showed that there is a 'multiplicity of means' to meet the demands of minorities. This grey zone is where – despite strong legal differences – convergence can occur in outcomes between countries.[33] This is exemplified in the French attitude toward Muslim parcels and the Norwegian attitude toward the symbolic inequality for humanists.

Both countries, instead of enacting legal changes, opt for practical and additional accommodations to compensate for the inequalities, which arise from these default templates. As one central Norwegian public document on the church administration of the cemeteries states: "Today's legislation in this area will be continued. At the same time we will make accommodations that take care of minorities" (St.meld.no. 2007–2008, p. 11–12). The Norwegian state provided a financial incentive with its 2012 trial project, to support the construction of neutral ceremonial rooms (Section 4.2.3.1).

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31 As one graveyard owner expressed it, he changed his strategy from emphasizing the Catholic identity to making his cemetery more attractive for a more general public. Interview with the Director of the Catholic Cemetery in The Hague, 4 December 2008.

32 These correspond with the Napoleonic Decree of 1804, the 1881 law on the neutrality of the cemetery, and the 1905 law of separation between state and church. See Chapter 3 for a detailed discussion.

33 Sections can be permissible but undesired (Elverum), illegal but administratively allowed (France/Lyon), a legal right (The Hague, Amsterdam), an exception (*Père Lachaise/Thiais*), or a violation of the law but nevertheless present (*Bobigny* 1937–1999).

Recall the French letter from the Ministry of Interior 2003 discussed in Section 4.2.1: "The law regarding cemeteries and Muslim parcels does not require substantial modifications." Yet, "it seems desirable, out of a concern with the integration of families because of immigration, to favour the burial of their close relatives on French territory" (Third Directive). The French state thus opts for an administrative encouragement of providing for confessional sections rather than legal change (Section 4.2.1).

(3) *Most importantly, there is a burial praxis and a logic of the terrain.* Strangely enough, this is the hardest factor to formulate. It is not so easy to say where the institutional variables (the regimes) or the internal factors of governance (the groups' own internal behaviour) end and the 'this-is-how-we-do-it' logic of the burial agents begins.

Throughout time, the norms, scripts, or habits of certain institutions or the internal burial habits of groups (Muslims, Jews) played into this logic of the terrain (visualized in my chart). If we recall our discussion of the French cases: Over time, families or groups, typically Jewish communities but also Muslims or Asian populations, desire to be buried as a collective. These families or religious representatives put pressure on the administrators if they do not abide by their burial wishes. The result is a ground-level practice that provides for confessional and cultural sections over time, in particular for Jews. Because these exist, and because they are materially embedded in the physical shape of the cemetery, decision-makers provide them for Muslims today.

And it is this materiality of cemeteries that is so fascinating! It reveals not only the traces and habits of the past, it also guides action for contemporary decision-making. It set limits on the extent to which cemeteries can be regulated from above. As the Parisian *chef des cimetières* aptly formulated:

> The problem (…) is that cemeteries do not lend themselves being steered at the level of a mandate (…) If one has done things a certain way for the past century, you cannot simply eliminate them, change them. This concerns private properties, sacred places – that's what cemeteries are all about. So, by definition, one ends up with things that are, in fact (*dans les faites*), contrary to the law.

Analytically, as originally intended, this passes as an internal factor of governance (families want to be buried together). Yet, ultimately, it becomes part of professional practices, entailing a set of professional codes, a plain practical reality that "the dead need to be buried." "If we are out of space, we cannot put them there." Or, referring once more to the cemetery head, "if you have 100 people who need to be buried on a particular day, then 'hoppity hop' they are allocated to one grave one the other."

As he explained, Muslims all have to be buried facing toward Mecca. Yet, in some denominations, the body is positioned on its side in the grave (or, in France, in the coffin), whereas again other groups have the custom of placing the body on its back, so that upon resurrection the deceased would come to a sitting position facing Mecca. This requires a different positioning of the graves in that section. Yet the traditional French (Catholic) burial position means having two rows of bodies touching head to head. If we then have to accommodate special subdenominations within a religion on top of that, "it becomes a very complex management."

Dutch respondents do not talk about the logic of the terrain because that is their very point of departure: It is self-evident. Giving every mosque their own spot (*ieder zijn eigen plek*) effectively means aligning oneself with demands for confessional demarcations.

In the Norwegian context, this is not an explicitly mentioned factor, perhaps because the demand for confessional or humanist sections is only just beginning to surface. And the homogeneity of the Norwegian population, reflected in the cemetery, has simply gone unchallenged up until now. Alternatively, it might be less necessary to defend confessional demarcations with reference to a logic of the terrain simply because the public visibility of organized religion is less problematic than it is in France.

6.5 Conclusion

This chapter concentrated on the material component of policy outcomes at the municipal and national levels. It sought to explain why public actors in these three countries ultimately take similar actions despite large legal differences in burial practices. It drew on the reasons mentioned that are specific to the embedded cases. But because these reasons mentioned can, but do not have to, be actual causes, this also required a more general analytic understanding of (religious) governance.

I first tested the descriptive powers of the state-church models. Could the hypothesized heterogeneous state-church model better anticipate the material institutional outcomes?

I found that only in France did it (with its Gallican script) better predict the existence of collective sections and a Muslim cemetery like *Bobigny*. For The Netherlands, principled pluralism and a separation tradition instead of pillarization was an improvement and removed the expectation of a pillar. Yet, it could not predict the lack of Muslim cemeteries or the public financing of the Islamic washing-houses. For Norway, the designation 'municipal disestablishment' added in the heterogeneous model was too vague a description to formulate concrete expectations. Here, in fact, establishment did a pretty good job of anticipating the lack of Muslim cemeteries and the legal changes made in 1996.

However, as the next chapter argues, the risk of reification looms when using these descriptive models to try to *explain* policy outcomes.[34]

I concluded using three sets of reasons why decision-makers, despite large differences in the legal burial frameworks, end up doing the same thing: (1) The influence of various (alternative) institutional regimes, like 'integration,' 'state church regimes,' or – in The Netherlands – concerns with urban planning and commercial exploitation that can overrule legal burial concerns. (2) A 'multiplicity of means' to meet the demands of minorities. (3) The reality and local pressures of the terrain: families or groups of a particular religious or cultural affiliation who desire to be buried together.

The bottom-up behaviour of groups (internal governance bottom-up) was very central to understanding policy outcomes in this domain, both in terms of a changing repatriation pattern and the desire of confessional or cultural groups to be buried as a collective. And as part of that established praxis in all local contexts, there is professional respect for death and burial in accordance with one's (religious) conviction.[35]

Analytically, this can be summarized in different ways. In the most general sense, policy outcomes result from both external and internal factors of governance. Furthermore, each of these factors is layered (see the chart). This suggests that the multiplicity of causes can explain outcomes. As to their explanatory power: Potentially, institutions, praxis, and cultural/structural factors all matter. Yet, outcomes ultimately also depend on how actors discursively interpret these institutions or cultural factors.

To get an idea of how the Actor Institution Constellation Chart 'works,' the next chapter looks at the practical reasoning of burial agents in the fieldwork narratives. Furthermore, it remains to be explored how national, state-organized regimes mattered discursively. They seemingly did little to explain the material component of the municipal pattern.[36] But how about their significance for the public reasoning of the burial agents? That is our next topic.

34 This is the case because of the multiplicity of causes and modes of governance, the challenge of underdeterminacy, and the difficulty of distinguishing justification from motivation (Section 7.4).

35 I placed cultural sensibilities at this level, as the *doxa* by which burial administrators automatically find certain solution inconceivable without being able to tell why.

36 I say "seemingly" because a descriptive misfit does not prove that they were not an influencing factor.

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Chapter 7: Discursive Patterns of Governance

7.1 Introduction

Chapter 6 tried to make sense of the similar institutional patterns discovered in our analysis of the embedded case studies of Chapter 5. In this chapter, I address some of the other remarkable findings of Chapter 5. For example, I look at the discursive component of the municipal pattern – the public reasoning of municipal agents across national contexts – and ask to what extent secularism or a state-church legacy plays a role for their answers. If the postulated standard state-church legacies failed to properly predict material outcomes, as concluded in Chapter 6, might they nevertheless have relevance for the agent's discursive responses?

Section 7.2 describes the municipal reasoning in three observations of both discursive similarity and difference. In Section 7.3, I engage the standard and heterogeneous state-church models as discursive tropes. Do elements of these models turn up in the agents' discourse?

Section 7.4 rounds off the discussion of Chapter 6 on the explanatory power of these models. If the mayor of Montreuil relies in part on what we could identify as an 'associational freedom' script, does that explain his actions? By means of a Discursive Chart (Table 7.1) and a look at the practical reasoning, I make clear how state-church legacies are relevant as issue frameworks in France and Norway. But it is hard to prove causality. This chart also allows me to inquire how secularism is used and argued for (discussed under the Sections of 7.5) and to substantiate the theoretical critique toward Asad.

In my conclusion in Section 7.6, an unexpected finding surfaces, which allows me to stretch my argument as far as possible to Asad and inquire about the role of secular sensibilities.

7.2 The Municipal Public Reasoning: Differences and Similarities

There are different ways of picturing the discursive component of the municipal pattern. The first way is to simply recall from the embedded case studies how the matter of confessional sections and private cemeteries is much more contested for French burial agents than it is for Dutch ones (e.g., need to 'juggle words,' tense atmosphere). Norwegian burial agents lie somewhere in between because they are very open toward the Muslim needs for confessional sections.

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Another way of showing discursive differences (and similarities) is to jump forward to the Discursive Chart mentioned in Section 7.3.5 (Table 7.1). The chart's first row summarizes the solutions provided for by all municipalities (typically a confessional section) and how this is to be understood. In their official explanations, the French reduce the section to 'regrouping the result of individual choices.' But the Norwegians too prefer to solve the matter rather by 'individual consecration' (Elverum) or 'soft sections' (Støren). French and Norwegian agents thus typically use an 'individualizing logic.' The Dutch, on the other hand, seem to have few problems with collective demarcations in the public sphere.

Staying with that same chart, we can also note a finding of similarity, highlighted in *italics*. In the second row under 'central ideas' we note the discursive relevance of guiding principles like 'equality,' 'freedom,' and 'respect' in each municipal case. Despite all the differences between countries, why do they apply similar principles when arguing for their solutions?

Then again, if we place these principles in the context of the conversations (in light of the issue in which they given meaning, row 3.), relevant differences appear. I address the second and last observation in Sections 7.4 and 7.5.

7.3 The Relevance of National State-Organized Religion Legacies

One way of formulating what I am looking for means returning to Bowen's distinction between a 'model of and 'model for.' As discussed in the Introduction (Section 1.2), a 'model of' describes a given reality, whereas a 'model for' intends to change social reality, not to merely describe it. As Bowen readily acknowledged, however, the distinction between these two is not clear-cut. In fact, I would argue they are crucially connected.

When social scientists try to capture and describe a given reality, they encounter agents using (national) models or categories like *laïcité* to explain or justify a given situation (i.e., the encountered model for shapes the scholarly understanding of the reality: the model of). Vice versa, social scientists introduce their preconceived framing and scholarly categories, their understanding of that empirical reality. Agents in the field in turn take these up to justify their own decisions.[1] Scholars furthermore might have implicit or explicit normative motivations for explaining outcomes in terms of the national model or category.

1 The leader of the burial commission of the CrCM Lyon read the same book as I did regarding Muslims and *laïcité*. His responses reproduced their scholarly analysis as an explanation of his situation. An uncritical reliance on his explanations would thus have led to a perfect example of reification, where we all – scholars and public officials alike – reproduce other scholars' frameworks.

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Remaining conscious of this distinction, says Bowen, who is concerned with France, means seeing *laïcité* for what it is: Rather than a sufficient (descriptive) or explanatory model of the French reality, it is a 'model for' – a normative model that is an ideological distortion of the social processes it purports to describe (2007, 1005). Understanding the workings thereof (i.e., how agents appropriate it and for what reasons) is part of the scholarly attempt to describe social reality.

Below I summarize how agents discursively engage state-organized religion legacies for all embedded cases, first as an explicit model or category ("I do this because of our state-church history"). Second, I look at how respondents engage some of the scripts I hypothesized as falling under the standard or heterogeneous model (e.g., a concern with 'principled evenhandedness').

7.3.1 Dutch Discourse: Principled Evenhandedness, Separation, Pillarization

In the Dutch municipal cases, all decision-makers argued for the principled equal treatment of (religious) communities, in one way or another. The consequent need for their own cemeteries or section in cemeteries was well captured by the slogan: "to each their own spot" (*ieder zijn eigen plekje*)

People explicitly referenced 'religious freedom' and 'equality' between church communities as leading normative principles in decisions over parcels. Yet, as discussed, differences did exist as to *who* should receive this equal treatment. Should we treat Islam as one community (Amsterdam) or address the internal divisions in Islam, as we do for Christians (The Hague)? Adherence to these principles of religious freedom and equality was not couched in any framework of *laïcité* or secularism, but solely from their reading of the Dutch national burial law (Wlb): a concern with citizen integration, a concern with financial exploitation (The Hague), and/or urban planning (Almere).

Rarely did agents explicitly reference a historical Dutch state-church legacy. The exception is the Dutch mayor of Amsterdam, who situates his reasoning about the public washing-house in the context of "Dutch state-church relations."[2]

We could recognize reliance on some of the scripts of the heterogeneous model: This involved the commitment to 'principled evenhandedness' between religious groups (in all municipal cases), a large emphasis on 'collective religious freedom' (most prominent in the Hague), and a concern with a 'separation element' (mayor Amsterdam).

2 The essence of state-church relations, according to him, emerges from the fact that the government does not interfere with the content of religion and no preferential treatment is allowed. Public financing of the washing house is thus not allowed yet overruled by a concern with citizen integration.

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I found no explicit discursive reference to 'pillarization' (neither as a term, an institutional meaning context, nor as a historical narrative).

7.3.2 Norwegian Discourse: Establishment, Compensatory Evenhandedness, Municipal Disestablishment

In the Norwegian case studies, only the minister in Elverum explicitly justified the decision over Muslim sections in light of a mutual understanding between Muslims and the Norwegian church and a state-church legacy: "It is a historical matter. (…) Precisely because we have a state church, the state and the church are both very concerned with securing the equal rights of minorities."

In the Støren case study, there was a similar emphasis on a more individualized solution, in addition to that of collective sections. Likewise, there was an explicit concern about 'treating other minorities evenhandedly' and with 'respect.' The church warden in Støren situates these normative commitments in his professional role as the representative of the Joint Parish Council. He thus also reveals an awareness of the existing state-church link. But rather than argue explicitly about a state-church history, he gives it a professional twist: "We have developed great competence, and we score high on user evaluations, (…)." He understands his double role: being a representative of the Joint Parish Council as well as a public servant. Furthermore, he relates this to his personal philosophy of accommodating newcomers. "We [the Joint Parish Council] have the task of meeting others and showing respect for their secular perspectives. For me personally, this is very important."

The humanist in Støren explains his choice for individual consecration as a solution because "it is the priests who came up with this suggestion."

Evidence for the relevance of the 'compensatory evenhandedness' script is expressed when agents defend a commitment to secure minority rights in light of a state-church hegemony or their professional role as a representative of the Joint Parish Council.

Evidence for an 'establishment script' is present insofar as agents take the hegemonic position of the Norwegian church as self-evident and given. Yet, this hegemonic position is not always explicitly argued (or positively valued). Rather, it forms the starting point for discussing possible solutions. As the minister in Elverum advises the humanists: "From a pure practical point of view," they realize that they are better off making their peace with the situation.

We found no explicit discursive reference to 'municipal disestablishment' in the embedded case studies, except for the former national senior advisor mentioning it as a reason for the 1996 Funeral Act.[3]

3 Interview Senior Adviser Norwegian Ministry of Government Administration, Reform and Church Affairs, 7 December 2012. See also Alsvik (1995, 111) for a similar argument.

7.3.3 How Is *Laïcité* Used and Argued for in the French Discourse?

French respondents stood out in their heavy reliance on *laïcité* as a 'model for' (see Section 5.4.4). Many respondents prefaced their answers with a historical sketch of the Third Republic and Catholic exclusion, putting their arguments in a framework for institutional solutions within some understanding of *laïcité.* The question of national models here thus coincides with the question of secularism usage. But, in light of my own research strategy of actual deployment (Section 2.3.4), I also remain sensitive to situations of *nonusage.* Furthermore, *laïcité* is not the only issue at stake. Therefore, I inquire whether 'strict neutrality,' 'Gallican,' and 'associational freedom' are present as discursive resources.

In the interviews, *laïcité* is perceived to be a *thing* with consequences for the administrators' daily activities. Yet, how *laïcité* was perceived as a factor for legitimizing outcomes varied enormously, primarily because agents meant different things by the term. In the course of a conversation, they sometimes change from an understanding of *laïcité* as a legal prescript to a set of norms, a principle, an attitude, a French way of doing things, or a historical narrative of the Third Republic (ambiguity of meaning).

These different meanings may then lead to opposite institutional recommendations (e.g., sections are prohibited by the legal text of *laïcité* but permitted in 'spirit'). Second, once settled on a particular meaning, the application of this legal text, or norm of conduct to a concrete domain, led to denotative difficulties. Which religious/institutional practices fall within its boundaries and which don't (denotational vagueness[4])?

The question of what prescriptively follows from *laïcité* proved closely tied to the question of what *laïcité* is. Conversely, defending the conceptual boundary (what falls within and what without) was seen as an intrinsically normative matter: what the ideal should or should not include. I would like to illustrate this point below.

What follows prescriptively from *laïcité* in burial matters? To resolve the existing legal insecurity, the Machelon report proposed legally supporting the mayors in taking the deceased's (or deceased's family's) expressed religious convictions into consideration. Second, it proposed extending or creating new private cemeteries, "conscious of maintaining the principle of *laïcité*."

Likewise, a study on Islamic burial in France argued that, if Article 9 of the European Human Rights Court was to be taken seriously, France should abandon the municipal monopoly (Hakim: 2005). As much as *laïcité* entails a prohibition to

4 Can the concept denote what references lie within its boundary and which do not? Failure to provide for clear demarcation criteria is referred to as 'denotational vagueness' (cf. Sartori: 2009b, 109).

discriminate on the basis of religion, they stated, it simultaneously obliges the state to allow its citizens the free exercise of religion.[5] In the spirit of the Third Directive (2008), they emphasized the respect for freedom of religion and conviction of the individual. Confessional cemeteries would provide for a legal alternative.

Without settling that legal question here[6], both proposals question what structuring the burial domain according to laic constraints would entail. Does it require a municipal monopoly over cemeteries? But also, and at a deeper level, they question the meaning of *laïcité* itself. Does the Machelon proposal exemplify a partial departure from *laïcité*, in which private confessional cemeteries are a lesser evil? Was the municipal monopoly *laïcité avant la lettre*? Or, is it an open – or moderate – form of *laïcité* (*laïcité modérée ou ouverte*)?

The same ambiguity is reflected in the answers of the respondents in the field. In its most stringent form, *laïcité* constrained the administrators' actions, many thinking: "If one follows the word of the law, you cannot do anything" (Paris contemporary). For the CRCM Rhône d'Alpes, the principle of *laïcité* was thought to *require* Islamic sections. The administrative chef in Paris thought that the confessional section should be legalized to synchronize with the facts on the ground. The former mayor of Montreuil, however, maintained that the meaning of the 1905 law was constant: We should avoid debate on *laïcité*, refrain from pluralizing it, and most certainly *not* alter the law. This served the extreme right.

There was also little consensus concerning the matter of confessional cemeteries. In agreement with the Machelon report, the CRCM Rhône d'Alpes argued that private cemeteries are compatible with *laïcité*; the third Directive and the administrative chef in Paris, on the other hand, declared this to be inconceivable. The mayor of Montreuil was against the idea of private cemeteries (although he offered them in his political pamphlet). But he was unsure whether this had anything to do with *laïcité*.

The question of the permissibility of private cemeteries according to *laïcité* resulted in five options: (1) The issue has nothing to do with *laïcité*. (2) It can be accommodated within a legal text of *laïcité*. (3) It falls not within the text, but within the 'spirit' of *laïcité*. (4) It falls neither within the legal *laïcité* nor its spirit, but it is justified as an 'exception' (historical, geographical, or pragmatic). (5) It violates *laïcité*. Some administrators solved this ambiguity by distinguishing different

5 For a discussion of solutions, see Hakim: 2005, 44; Frégosi/Boubeker/Geisser: 2006, 104; Machelon: 2006, 65.

6 The question whether the French legislation violates Article 9 was central to a case of 6 January 2006, *M. Remy Martinot et autres.* Does the prohibition of burial without a coffin not violate religious freedoms? The result was that Articles 8 and 9 of the European Convention of Human rights may be constrained by concerns of public health and the general interest (Machelon: 2006, 65).

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(historical) versions of *laïcité*, some constraining and some facilitating accommodation.[7] The different versions stood then for different (historical) state attitudes toward religion in the public sphere.

Two specific points follow: Naming or framing things as *laïcité* (or not) is *always* normatively and politically charged from the perspective of the everyday world. There is an intrinsic connection between its descriptive and prescriptive component. Second, if we follow the reasoning of the different agents, *laïcité* explains everything.

This answers our question (Section 4.3): How can adherence to *laïcité* explain both the absence and presence of confessional sections? *Laïcité*, we conclude, is not an *explanans*, but very much itself an *explanandum*.[8] The alternative, as Bowen has suggested, is to conceive of French state-organized religion relations in terms of historical scripts.

7.3.4 Strict Neutrality, Associational Freedom, and Gallican Logic

A variety of public actors draw on a neutrality scheme as a matter of rhetoric. One concern with strict neutrality is prominent as a matter of legal fact: The legal reasoning in the CGCT ('neutrality' article L2213–9) emphasizes the importance of separation and the neutrality of third parties in the burial governance. Also, at the level of the everyday world, local administrators paid lip service to this ideal. Being concerned with neutrality was recognized as an important constraint on their activities. The mayor of Montreuil told us how the extreme right, as a matter of political strategy, attacked his decision to provide for a peppercorn rent, claiming it violated state neutrality. "These peppercorn rents … are a disguised form of donation. It is not *me* who is against this. It is the law" (Marine le Pen, *Front National*).

Yet, as a matter of day-to-day practice, this ideal mattered less; Bowen (2012, 361) makes a similar observation. Administrators showed willingness to work around this neutrality.

Evidence for the relevance of the Gallican script was visible through the historical discussion of the cemetery of Bobigny. From secondary sources, we inferred that the motivation for the Muslim cemetery of Bobigny was the colonial celebration but also hygienic control of its Muslim subjects. The first involved the celebration of fallen soldiers who had fought for France as well as Muslim civilians who had passed away in the neighboring hospital or region.

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7 *Laïcité francaise, laïcité dur, laïcité du combat* were the constraining versions; *laïcité commune et ouverte, laïcité positive, laïcité bien comprise* the more permissible versions (Paris contemporary).

8 It is not an explanation, but rather the thing to be explained.

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Some contemporary actors made proposals for establishing private Muslim cemeteries.[9] Yet the majority of the respondents objected, rather fiercely, to this solution: "Then what happened with the Catholics will occur once again – they will become exclusive, deciding who can be buried there and who cannot." (Paris contemporary) Here, we can read a Gallican scheme, or perhaps an explicit Republican political philosophy, into the agents' thinking. Private Muslim cemeteries break with the idea of an unbroken relationship between the state and the individual citizen, first because they are private institutions (clubs) and second because they are 'religious.'[10] The leader of the *Services des cimetières* was unsure whether certain religious groups were enlightened enough to be guaranteed equal treatment.

Evidence for an 'associational freedom scheme' can be found in the discourse of the mayor of Montreuil: "The 1905 law provides first and foremost freedom of conscience; second, the Republic does not recognize any religion, nor does it pay the minister of any religious group, with the exception of Alsace. And, furthermore, the Republic guarantees everybody the right to practice their own religion."

He further remarks: "What is religious freedom if the material conditions for this freedom are lacking?" Based on a liberal reading of the 1905 law, he wants to let the Muslims 'catch up.' Yet, this should not occur under the pretence of being a voluntary association as some colleagues have done ("They trick the law") but as a religious association. Against a strict neutrality script, he emphasizes support for religion by facilitating worship in properly built houses of worship.

7.3.5 General Summary: The Model's Elements as Discursive Resources

Do the scripts of the standard or more heterogeneous state-church models appear in the discourse? For France, the standard model (*laïcité*) was, in a discursive sense, very apt at predicting what the issue was seen as being about, albeit in different forms: sometimes directly guiding action ("I do this because of *laïcité*") but mostly as an institutional context providing meaning to other principles (equality). The Gallican script seemed relevant for understanding the existence of the Muslim cemetery of Bobigny until 1999. But I have little to say about its explicit discursive usage. The nature of the investigation was not discourse analytic. The objection against private cemeteries could be interpreted, for the moment at least, as the result of a Gallican/Republican fear of broken loyalties between the state and individual citizens. Finally, the 'associational freedom script' provided a good fit with *parts* of the Montreuil mayor's reasoning.

9 See Machelon: 2006 and Hakim: 2005.

10 Again, I can only confirm Bowen's observation (2012, 361).

In contrast to the French and Norwegian agents, Dutch agents don't often *explicitly* reference a state-organized religion legacy as the background for their ideas. However, concerns with 'principled evenhandedness' and 'separation of state and church' did surface.

For Norwegian respondents, 'compensatory evenhandedness' was a salient script. We found evidence for an 'establishment script' insofar as agents take the hegemonic position of the Norwegian church as self-evident and given. But it is not always explicitly argued. 'Municipal des-establishment' was not mentioned.

In sum, I found evidence across municipal cases for the discursive relevance of some of these normative scripts. With a heterogeneous conception of a state-organized religion model we are better able to divine what (normative) considerations are at stake in the deliberation process of the decision-maker(s). I found this was the case for France and The Netherlands but not entirely for Norway. Yet, this still does not actually prove causality. In order to address these issues and the question of 'secularism usage,' below I summarize the material according to levels of ideas.

7.4 The Causality of State-Organized Religious Legacies

What do agents talk about and what do they *not* talk about? The chart divides: (1) the factual material solutions chosen and their discursive understanding; (2) central ideas that guide actions; (3) frameworks/institutions.

The first level should be clear by now; the second level summarizes ideas that respondents mention when explaining their choice for a certain solution. These can be explicitly normative (moral-political) reasons: ideas about what agents *ought* to do as members of a political or professional community – or more realistic and prudential obligations.[11] At this level, I stuck to the language of the everyday world.

The chart reveals a remarkable similarity regarding central (universal/public) values that agents claim guide their action, i.e., 'equity,' 'freedom of practice,' 'respect' (in *italics*). We can furthermore observe the *absence* of 'secularism' or some proxy as a guiding idea in Norway and The Netherlands.

11 E.g., don't shock!, weight of history, "satisfy" (the customer), logic!, "for a mayor what is the problem?," "niche in the market," "we are a practical people."

Table 7.1 Discursive chart of the everyday world's reasoning, Part I/1

1. Municipal outcomes Solution Material Discursive understanding of the solution	*Paris contemporary (FR)* Confessional section Understood as 'regrouping the result of individual choices'	*Montreuil (FR)* Confessional section Understood as 'regrouping the result of individual choices' (not by the mayor!) Hedge around Jewish section is vegetation.	*Lyon (FR)* Confessional section Understood as 'Regrouping of deceased of Muslim faith'	*Bobigny (FR)* Confessional section Private cemetery before 1999
2. Central ideas	*Respect for families*[11] Avoid very complex management[12] Provide satisfaction[13] Humane management[14] Weight of history[15] Don't shock![16]	Logic[17] For a mayor what is the problem? We are very pragmatic. Freedom of conscience *Freedom of religious practice*[18]	*Freedom of belief*, Neutrality of 3rd parties *Respect* for the deceased regarding their religion (all demanded by principle of *laïcité*)[19]	*Freedom of conscience* *Respect* for their conception of moral life and social customs

12 In light of being a burial professional and spirit of the law.

13 In light of practical concerns with space, direction of the graves and allocation (pragmatism).

14 In light of being a burial professional and *logique du terrain*. (Because there is a strong demand, we provide).

15 In light of being a burial professional and spirit of the law.

16 In light of *logique du terrain*: the fact of *achat en avance* and historical and contemporary pressures of confessional groups.

17 In light of *logique du terrain* and lobby or pressures of confessional groups/public order.

18 In light of existing Jewish section and the discretion of the mayor (professional code).

19 In light of the 1905 law.

20 All of the above norms are understood in light of an overarching "principle of *laïcité*."

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2. Central ideas	*Paris contemporary (FR)* *Laïcité* as neutrality of 3rd parties[20] Administrator Pantin: place in hierarchy[21] *Laïcité bien comprise* as norm of *equity*	*Montreuil (FR)* Let Muslims catch up.[22] *Equity and nondiscrimination between Jews* and Muslims;[23] Administrator: avoid conflict.	*Lyon (FR)* Nondiscrimination (CGCT)[24] *Equality regarding death*[25] Sacredness of death[26] Feel at home Here we have to think!	*Bobigny (FR)*
3. Issue framing What is the confessional section seen as being about? Regarding private cemeteries	*Laïcité* (of various kinds) Pragmatism Funeral laws (spirit vs. text) Professional codes (public service) *Logique du terrain* (history) Sacredness of death State responsibility to bury/*laïcité*	1905 law Pragmatism Discretion & Professional code of mayor *Logique du terrain* (history) Avoid making it into *laïcité*! State responsibility Unsure, if about *laïcité*	Principle of *laïcité* Funeral regulations (CGCT, political 2008 decree) Citizen integration, Islam	Colonial issue Hygiene, Control France as a great Muslim Power Military salute toward Muslims

21 In light of burial law.

22 In light of the professional code as an administrator vis á vis the political establishment.

23 In light of the 1905 law, the weak economic situation of Muslims.

24 In light of a historical narrative of Catholic exclusion.

25 In light of the funeral articles in the Code of Autonomous Regions; CGCT.

26 This is demanded as a matter of equal citizen rights.

27 In light of Islam and tradition – one should be buried in the land of death.

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Table 7.1 Discursive chart of the everyday world's reasoning, Part I/2

1. Municipal outcomes Solution Material Discursive understanding of the solution	*Amsterdam (NL)* Confessional section and Islamic washing-house Understood as 'firm section with-out confessional governance' Washing-house as 'multifunctional facility'	*The Hague (NL)* Confessional section Understood as 'firm section with self-governance'	*Almere (NL)* Private solution Understood as 'private cemetery' 'Confessional section' according to legal expert
2. Central ideas	Feel at home Compensatory neutrality Principle of separation[27] Integration of citizens *Equality* between religious groups[28] No factionalism internal to Islam	Ieder zijn eigen plekje. Niche in the market *Religious freedom* *Equality* (between groups)[29] There is not one Islam.[30]	*Equal treatment*[31] Acknowledge *religious freedom* and eternal grave-rest *For Muslims* independence Secure permanent grave-rest Sacredness of death
3. Issue framing What is the confessional section seen as being about?	Burial law State-church relations Immigrant/citizen integration	Burial law Financial matter Interpretation what is Islam	Burial law Financial and Urban planning For Muslims: internal self-governance, Islamic custom

28 In light of Dutch state-church relations.

29 In light of the Wlb burial law.

30 In light of the Wlb burial law.

31 In light of the burial law and the interpretation of 'each church community' (*ieder kerkgenootschap*)

32 Treating Muslims equally like the Jews in light of financial and urban planning considerations.

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Table 7.1 Discursive chart of the everyday world's reasoning, Part I/3

1. Municipal outcomes Solution Material Discursive understanding of the solution	*Elverum (NO)* No section Instead 'individual consecration' Section understood as manifestation of difference[32]	*Støren (NO)* Confessional section Individual consecration to both Muslim and humanist needs Understood as 'soft' section
2. Central ideas	Not segregate in death.[33] Secure minorities their *equal rights*.[34] We are a practical people. KA man in regards private cemetery: Norway does not like privatization. We should all be buried next to each other in the same soil.[35]	Be prepared for the future. They should feel at home as we do.[36] *Respect* Take care of traditions but through an integrated solution.[37] Don't provoke. "(*helhet*) Wholeness but we don't all have to be the same."[38] Humanist: *respect,* dignity, disrespect
3. Issue framing What is the confessional section seen as being about?	Consecration Pragmatism State-church history Integration Vandalism Social democratic unity (KA representative)	Consecration Professional code/ State-church link Integration Social democracy New burial law Humanist: matter of Church hegemony (church's grip on death)

33 In light of integration politics.

34 In light of strengthening integration in society.

35 In light of the state-church system.

36 In light of social democracy unity.

37 In light of concern with integrating newcomers.

38 In light of a professional code and state-church constellation (representative of the Joint Parish Council) and a personal philosophy of welcoming foreigners.

39 In light of social democracy.

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At the third level, I interpreted what respondents see as the issue. Here, too, I closely followed the everyday world discourse. Yet, the choice of issue framing is ultimately my own. I remain sensitive to the meaning of the scholarly terminology in the context of the life world, but not slavishly. Sometimes I summarize in terms of the literal terminology of the life world (as with the *logique du terrain*); sometimes I summarize in terms of a more generic terminology like 'financial and commercial exploitation,' even though that way of grounding the respondents reasoning may not fit the respondents' own understanding.[40] An issue framework can refer to an institution, a public discourse, or an event – or other sources of authority altogether.

Lastly, I demarcated cultural and confessional narratives: a level of ideas on par with Schmidt's distinction of public philosophy (Section 2.3.3). Actors may be unable to define these ideas clearly or to explain how they changed or developed. Yet, everybody knows what the basic philosophy is. At this level, I chose examples from the material in which respondents could not really explain their actions, but where they were at the same time deeply committed to avoiding certain institutional solutions. This level comes closest to what Asad would refer to as "sensibilities." To keep the chart accessible, I discuss this separately under Section 7.6.

Both issue frameworks and cultural and confessional narratives are, of course, also ideas. So, the scholarly challenge has been to divide this into levels. For example, is 'integration' the basic idea motivating the agent into action, is it an issue framework, or is it a public philosophy in which a concern with *helhet* (wholeness) is formulated? Is *laïcité* an explicit guiding norm, or is it an institutional framework or a historical narrative used to argue for equity for Muslims and Jews? In the everyday world, these terms are given a multiplicity of meanings.

My aim in using these distinctions is to secure a broad understanding of discourse, one not limited to agents' literal use thereof. But an understanding of discourse that can also encompass potential similarity in narratives or sensibilities. Yet I would maintain that the scholarly interpretation of that narrative as being 'Republicanism,' '*laïcité*,' or 'social democracy' then requires explicit justification (*strategy of perceived deployment*). I return to this point later.

Why am I so concerned with foundations and provide such a detailed chart of the reasoning behind agents' justification or 'sense'? I am trying to understand (a) how practical reasoning[41] works in the context of the everyday world; (b) what the role of institutions is, in particular that of a state-organized religious regime or secularism; and (c) given the methodological concern with scholarly reification,

40 When in the interview I summarized that commercial exploitation was an important theme for Dutch agents, my respondents reacted with disapproval. Interview with the Director of Municipal Cemeteries, The Hague, 21 April 2009, and interview with the Juridical Advisor, 10 August 2012.

41 See Section 6.1 for an explanation of the complexity of practical reason.

I am wary of overinterpretation: I try to make the levels of everyday world *and* scholarly interpretation transparent to all.

With reference to the chart, let me return to the observations of the discursive municipal pattern mentioned in Section 7.3.5. The chart can now substantiate my observation of similar action-guiding principles across municipal contexts, yet different context of meanings/issue frameworks. As illustration, I take reference to 'respect,' 'religious freedom,' and 'equity' in this chart and situate them in the contexts of the particular interviews below.

In contemporary Paris, 'respect for families' is used as an argument to justify the decision to bury even on a Christian holiday. Although this is prohibited by French work law (Easter is a Christian holiday on which burials should not take place) and is seen by the respondent as violating *laïcité*, he gives 'respect' meaning as part of his being a burial professional (sign of a humane management) and the spirit of the law (rather than the word of the law). The same administrator uses 'securing equal treatment' (of individuals) as an argument against private cemeteries, an opinion grounded in an understanding of *laïcité bien comprise* ("well understood").

In Montreuil, the mayor uses the argument of 'religious freedom of practice' to justify accommodation of a Muslim house of worship, grounded in an interpretation of the 1905 law. He is committed to an idea of 'equality and nondiscrimination' between Jews and Muslims when arguing for confessional sections and against the background of a historical narrative of Catholic exclusion. But he also argues strongly for 'religious freedom of practice' when granting confessional sections. Funeral rites are seen as central to the religious practices of the Muslims grounded in the 1905 law.

The Muslims in Lyon argued for confessional sections by pleading for recognition of 'the freedom of belief,' 'respect for the deceased in regards their religion,' and a concern with nondiscrimination, all interpreted in light of an overarching principle of *laïcité*. They also argued for burial in accordance with one's faith by relying on 'equality regarding death' as a matter of citizen rights.

In the Bobigny study, Godin authorized the creation of the Muslim cemetery as a token of "respect for their conception of moral life and social customs" and in light of a French (colonial) history as a nation that defends freedom of conscience.

In the Amsterdam case, 'equality between religious groups' is translated into an institutional provision of an Islamic section for all denominations. And it is given meaning based on an interpretation of 'each church community' in the burial law. In The Hague, 'equality (between groups)' is translated into seven separate confessional sections and inspired by an interpretation of 'each church community': "there is no one Islam" from the burial law. In Almere, 'equal treatment' toward the Jewish community (treating Muslims on par with Jews) is used as an argument to justify granting land for an Islamic cemetery and it is given meaning in light of existing financial and urban planning circumstances.

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In Elverum, the minister argued for accommodating Muslim burial needs in order to "secure minorities their equal rights" in light of the existing state-church history. In Støren, the church warden makes new plans for confessional sections out of "respect, taking care of traditions but through an integrated solution." And he grounds this respect in an understanding of his professional role as a representative of the Joint Parish Council and the existing state-church link as well as a personal philosophy of welcoming foreigners. For the humanists in Støren, the burial solution of individual consecration is understood as a 'matter of respect and dignity' toward the Christian concern with consecration. The 1996 change of burial administration is understood as 'disrespectful' and as a matter of unjustifiable church hegemony.

In sum, these three normative principles are relevant in all local contexts. But they are given various meanings in very different ways. We can observe what is called the challenge of 'underdeterminacy,' best demonstrated with a principle like equality: The same principle can give rise to different institutional solutions. On the one hand, it is used as an argument defending seven gravefields in The Hague; an Islamic cemetery in Almere; *no* Islamic cemetery in contemporary Paris; and the individual consecration of graves in Elverum.

Furthermore, the principle can be confirmed on different grounds: based on burial law, urban planning, financial considerations, *laïcité bien comprise,* or state-church history.

In other words, institutions tend to bend under the weight of interpretation. Not only are there several scripts in an institutional regime, the scripts themselves can allow for various institutional translations. In that sense, these general normative principles are the malleable glue of public reasoning. But what I want to highlight is that, vice versa, scholars can interpret the presence of a normative script as proof of an existing institution. They can read their 'variable' back into the everyday world reasoning.

So why is establishing causality hard? As indicated with the actor constellation chart (Scheme 6.2, Section 6.4.2), the complexity consists in a variety of institutional regimes forming the context for the agent's reasoning. In our scholarly eagerness to find causality (patterned structures), we are inclined to find evidence for the variable through which we analyze the situation.

In the example of The Hague, the central decision-maker who allowed for seven grave fields for each Muslim group does not mention (or even seem to ponder) Dutch state-church relations. Rather, he situates the normative scripts (evenhandedness toward each group, there is no one Islam …) from within his reading of Article 39 of the national burial law (Wlb).

We as researchers can conclude that he makes this choice *because* of an internal heterogeneous state-organized religious regime. But, technically speaking, he is not thinking about this institutional regime, but rather the burial regulations. It would thus seem to be more correct to say that he is *motivated by,* or draws legitimation

from, a certain (normative) script that works across both regimes – that of the burial regulation and state-church relations, which possibly also inform his picture of how to integrate minorities. Furthermore, I hasten to comment that this is not the whole explanation: He crucially explains his decision as being motivated by making money (realistic argument).

In the example of the mayor of Montreuil, the opposite occurs: The burial legislation is not part of his reasoning at all. I interpret his institutional action as rather unreflected, in the sense that he knows there is already a Jewish section. Demand exists from Muslims (whom he likes to please, in order to get votes). Furthermore, it probably does not strike him as contradicting his earlier decision on the peppercorn rent and earlier interpretation of the 1905 law. Because he is the mayor, he does not have to be concerned with superiors. He and he alone decides; he goes forward with something until he runs into an obstacle or contradiction. When I note the legal prohibition, he is surprised and defensive. Prohibited? It is logical. He finds legitimation in practical solutions: This is what we do. Furthermore, there follows an ad-hoc explanation about the Catholics having first historically excluded and how it is only a sign of nondiscrimination and equal treatment that Jews and Muslims now can have their own section, too. Employing a liberal reading of the 1905 law, he wants to let Muslims 'catch up.' He is not aware of the guiding institutional burial rules (legal prohibition). Or maybe he simply does not care.

The mayor's reasoning could thus stand as an illustration of the 'associational freedom script.' Yet, in order to *explain* the mayor's actions, we have to add the importance of pragmatism, his flirting with the Muslim community, and the logic of the terrain. His actions result from a combination of pragmatism and *logique du terrain*.

As mentioned earlier, Bowen calls these lower-level schemes "categories, habits, ways of doing things and evaluating practices that are often quite path dependent and may be quite specific to particular domains" (2012, 362). Only then does a justification in light of the 1905 law follow (an 'associational freedom script') and a Catholic narrative of exclusion in a second instance.

Generalizing from these examples, studying public reasoning in action poses several challenges: (a) distinguishing motivation from justification; (b) often dealing with a multiplicity of causes; (c) discovering that institutional action is not always reflected, but initially rather practice-driven, confirming Schmidt's knowhow type of social action; (d) being faced with the challenge of underdeterminacy.

Ultimately, this shows the explanatory limits of these models: The more refined ones give a more nuanced idea of the different commitments at stake. Yet, individual outcomes still depend on what the decision-maker does with them and the multiplicity of factors at stake.

I see the explanatory value of state-church legacies as closely related to the process of practical reasoning in the everyday world. I propose an understanding

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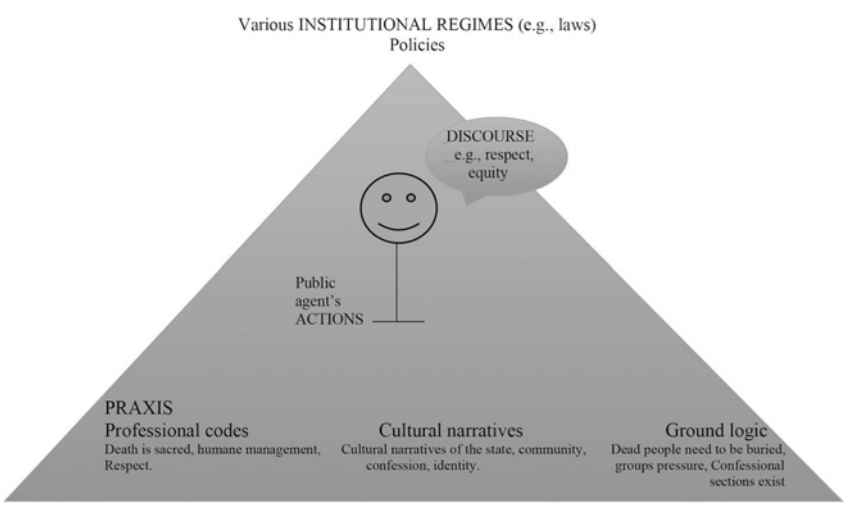

Scheme 7.2: Picture of practical reasoning in between praxis and institutions.

of practical reasoning as (a) influenced by a range of (layered, see previous chapter) institutional regimes; (b) the level of praxis (encompassing professional codes, cultural narratives/sensibilities, and a ground logic); and (c) ultimately, the decision-makers who make sense of the burial demand in light of these structures through their discourse. Scheme 7.2 visualizes this from the perspective of the decision-maker.[42]

7.5 The Viability of Secularism as a Structuring Term for Comparison

Moving on from the question of causality, I wish to return once more to the discursive chart. There is another significant discursive difference between contexts: the absence of a concern with secularism or *laïcité*. With this observation, we are in the position to substantiate empirically the theoretical argument of reification.

As argued in Section 2.3.4, in his methodological approach Asad creates a situation of 'indiscriminate scholarly secularism making.' There are no explicit definitions in his framework, so that the question about denotation – what falls within and what falls outside of the boundaries of the concept – is recast in terms of 'concept

42 Note that the influence of other actors or the role of Muslims is no longer included in this drawing as opposed to the Actor Institution Constellation Chart. I implicitly rely on an understanding of social reality as layered into (1) a discursive level, (2) an institutional level, (3) a praxis level, (4) a level of behaviour and action. See Van Engelen (2000, 6) who relies on Bader.

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deployment.' But because he pays no attention to the identity of the person doing the deployment, Asad's analysis about 'the secular' does not explicitly justify why that is (and whose secular he's talking about).

I criticized his approach as well as formulating one way in which it could be defended for the purpose of empirical research.

Based on the chart, let me say the following: (1) In France *laïcité* is a term from the everyday world. Asad's question about usage internal to practice thus functions if specified as a strategy of 'actual deployment.' I can chart the different usages and meanings of secularism because the actual usage of the term by the decision-makers in the field holds the analysis in place.

(2) The question 'who argues for secularism or not' also proved relevant. Bertossi suggested that national model scholars end up reifying the French debate because they focus only on formal levels of policy-making. "Social contexts, concrete interactions, and institutional settings are curiously never the place where 'model scholars' do any research" (Bertossi/Duyvendak: 2012, 241). Indeed, focusing on everyday things revealed much more diverse action scripts. Nevertheless, in contrast to Bertossi, I found that the lower-level administrators were *more* inclined to talk in terms of *laïcité*. The higher-ranked administrators or political actors, on the other hand, were allowed higher levels of discretion, allowing for more 'honest' accounts of their actions.

But what the chart also shows is (3) that, on all levels, *laïcité* was only *one* idea. Just like in the other countries, respondents talked in terms of general normative principles: 'religious freedom of practice,' 'equality,' 'respect,' 'neutrality.' They used ideas like *logique du terrain,* 'don't shock!,' 'logic!,' 'sacredness of death,' 'satisfy the customer,' 'let Muslims catch up,' to justify their actions.

At the level of *laïcité* as an issue framework, it mattered as *one* consideration (most often as a constraining element). Yet, respondents *also* situated their arguments vis-à-vis 'logic du terrain,' 'integration,' or 'being pragmatic.' The chart reveals *laïcité* thus as *one* discursive trope, or context of meaning, and a contested one at that.

Why frame the entire French analysis in terms of it? This downplays the crucial importance of pragmatic factors and the role of burial praxis. And it would risk framing the French scripts *as being only about laïcité.* Now, the point is not to say that 'the associational freedom script' could not be reframed as *laïcité*. Yet, summarizing the reasoning in the everyday world as *laïcité* – as a matter of etic intervention – we resort to a higher level of abstraction again ("go meta" in Bader's parlance). This mystifies and clouds rather than clarifies. Such a totalizing account stands in the way of comparative analysis (Bertossi: 2012; Bertossi/Duyvendak: 2012).

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7.5.1 Denotative Troubles[43]

The matter does not become easier in the Dutch and Norwegian contexts. What demarcation criteria do we apply when the term is not used? A scholarly framing into Dutch or Norwegian secularism would suggest that what happens to Muslims or humanist burial needs in these contexts – and how agents make sense of it (two different things in our analysis) – is 'secularism' of some sort. Now, that is, of course, possible. Because the term 'secularism' is so unspecific, anything can be framed into it. The question is rather what do we stand to gain? I think that it rather hinders comparative analysis.

The first comparative point is that secularism or *laïcité* – however contested –is something *real* for the French respondents, though it does not exist as a discursive resource for Dutch and Norwegian respondents. Secularism or *laïcité* thus appears as an *element of difference,* not commonality. With an etic framing in terms of secularism, we would exactly *fail* to understand comparative cultural specificity.

Second, if we want to compare what happens to Muslims and humanists and understand the differences, what we need are more precise terms and analytic distinctions, not taking recourse to a higher level of abstraction. As just argued for the French case, *laïcité* is indeed an important discursive element. Yet focusing on this discursive term as the structuring concept would give analytic primacy to ideology. That would overshadow the relevance of actual practice and pragmatic reasons for understanding actions.

Third, it is important to leave analytical room for the meaning-giving process of the everyday world itself. Asad's etic framing ultimately overdetermines this as a matter of governing 'religion.' Yet, as my chart shows, the burial demands are largely seen as a combination of issues: They are justified and possibly regulated in light of a diversity of regimes. And the differences between countries are large.

Finally, in a terminological sense, that framing stands in contrast with the understanding of the everyday world itself. Let us look at a few quotations in which the Dutch and Norwegian respondents are explicitly asked for their ideas on secularism in connection to the cemetery management.[44]

7.5.2 Relevant Quotations: "How Does Secularism Affect Your Decisions?"

Here is a passage from the interview with the church warden in Støren:

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43 Can the term 'secularism' denote what references fall within its boundary? Failure to provide for clear demarcation criteria is referred to as 'denotational vagueness' (cf. Sartori: 2009b, 109).

44 For reasons of space I have limited this to four examples from the Norwegian and Dutch material.

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Me: How has secularism affected your work?[45]
Church warden: I don't think the secular is so important. I can meet all other believers with respect, even though they are different, without letting go of my own convictions. So, I don't believe that is actually secular thinking at all. We are part of the same society, so we have to find solutions that are the least polarizing.
Me: So, you say this is actually not secular reasoning? What would have comprised secular thinking then?
Church warden: If you take France as an example, with its very secular profile … take away most the symbols. I am more interested in (…) The HEF representative said he preferred no symbols or crosses in the graveyard, and I can go along with that thought and negotiate about that and agree that we should do nothing offensive. At the same time, I am not going to take away the whole Christian background.
Me: What would have happened then if you had taken away all symbols?
Church warden: I cannot take away a 200-year-old history. That would require a whole new graveyard – only then can we talk about "here it is life perspective neutral." But right now, we have to find the best common solution.
Me: So, you would not erect a cross here on the new part of your cemetery?
Church warden: No, I will not put a cross on the entrance of the new part, but that is not so secularly motivated but out of respect for the others, in order not to provoke. As I said, they should feel equally at home as we do.

This respondent's thinking shows that being secular is not the leading motivation. Rather, his choice is motivated by a concern with "respect for the others," "not to provoke," and that "they should feel equally at home."

Interview with a humanist in Oslo:

Me: How has secularism affected the way Norway regulates the graveyard?
Humanist: Eh … I am not sure what you mean by that question (…) whether it is secular? You mean you want to know whether Norway is secular? [He waits for confirmation] … Yes very. They just don't think about it (…) what it means to go to church. They find it enjoyable to go to church at Christmas. It is part of the Norwegian way.
Me: I mean more regarding the cemeteries and the way the state regulates them.
Humanist: No, that is not very secular ... certainly not. The church of Norway is in control, so I don't see how that can be secular.
Me: Should it be secular?
Humanist: I don't know, the issue is that they respect other religions but not us. It's OK to make fun of us (…). Yes, as a humanist you feel discriminated against.

Here the respondent conveys the opinion that the burial regulations are not secular: "The church of Norway is in control, so I don't see how that can be secular." But he also tells us that whether or not it *should* be secular is ultimately secondary to

45 "Hvordan har sekularisme påvirket dine arbeidsoppgavene?"

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the question of discrimination and equal treatment: "The issue is that they respect other religions but not us. It's OK to make fun of us."

Interview with a humanist representative in Trondheim:

> *Me:* In what way does secularism affect the way you provide for burials?
> *Humanist:* That is, maybe … well … eh … burial is maybe that domain where traditions are most deeply anchored … because it is such an absolute life situation, where traditions sit very deep. So … ehm … Have you ever been at a humanistic burial ceremony?
> *Me:* No.
> *Humanist:* No? Well because then you would recognize many Christian elements in our ceremonies as well … though they concern more the formal elements of a burial – songs, music, lyrics, speeches … But we completely focus on the deceased (…) Typically, I would say, we paint a verbal and a musical picture of the departed. That helps us to remember who that person was. And that is how the person lives in all eternity, through our stories and memories others live.
> *Me:* But what does this have to do with secularism?
> *Humanist:* What do you mean by secularism? Do you mean nonreligious?
> *Me:* [*Silence*] Well that is exactly what I am asking you …
> *Humanist:* [*laughs*] Ha ha.

To make him less uncomfortable, I add, I am curious to know how you connect secularism with burial.

> *Me:* Are there things that you *cannot* do because of secularism? Are there rituals, ways of burying someone that are *not* possible because of secularism, or that we *should* do because we are secular?
> *Humanist:* By secular society I mean a society where one is not automatically registered at birth in the state church.
> *Me:* But what about the cemetery?
> *Humanist:* [Silence and discomfort] …
> *Me:* I am interested to learn whether you connect secularism and burial or the burial administration.
> *Humanist:* Ok, well, in a secular society the administration of all ritual actions should be connected to the different religious communities … eh ... And if you then don't have any affiliation, then there should be a neutral public institution that helps you with your ceremonies.

The respondent was at a loss about how to connect my question about secularism to cemetery practices: "Do you mean nonreligious?" Only after my intervention does he arrive at a meaning by translating secularism as "a society being secular." And he contextualizes that question toward a set of institutional practices "a society where one is not automatically registered at birth in the state church." "There should be a neutral public institution that helps you with your ceremonies." The respondent

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does not explicitly argue that the current Norwegian burial regulations are not secular; yet, it follows from his description of what a secular society entails.

Interview with a legal burial expert in The Netherlands:

> *Me:* How do you think the Dutch burial law (Wlb) addresses concerns with secularism?[46]
> *Legal expert:* What do you mean by secularism?
> *Me* [*silence*]: … That is my question to you.
> *Legal expert:* I … eh, yes, eh … [*uncomfortable*]
> *Me:* It is not a quiz, I am simply curious.
> *Legal expert:* I get it … Well … I learned a lot from my predecessor (…). God rest his soul … He worked 40 years at the Ministry. He functioned as the Secretary for the Advisory Commission on the burial law. He explained to me … that we have given maximal freedom to religious groups to do as they please (…). And this is how I have always understood the Dutch attitude, not only regarding burial but other areas, too. The burial law is in fact very short, only 100 articles. In terms of substantive issues, it prescribes very little. That is a very conscious choice. We don't want to prescribe how things should be done. That creates too many problems in practice.
> *Me:* To what extent is that secular?
> *Legal expert:* I don't know what you mean by that. We have state-church relations. The relevant question is: "Does the state facilitate religious communities?" For example, because they think religion is good for the community.

The examples given above share three features: In most cases, the respondents were uncomfortable with my questions. They were often unsure what to answer, because they didn't know what the term stands for. In each case, they reframed the scholarly question into what they think is the central issue. "The relevant question is: 'Does the state facilitate religious communities?'" And insofar as they come to an understanding of what being secular or secularism would entail regarding the burial domain, ("nonreligious," "like France," "a neutral public institution that helps you with your ceremonies"), this is a meaning they don't see fit for their own actions or the burial practices at hand. They thus tell us that 'secularism' or 'being secular' is not a leading motif in their thinking.

So, finally, we have an answer to the fieldwork puzzle: Why do they not talk about secularism? For Dutch and Norwegian agents, the term does not guide their actions – or it has a meaning that is perceived as conflicting with how they understand the burial practices or their choices at hand. In the case of the Oslo humanist, a scholarly framing in terms of Norwegian secularism would mean taking sides in a battle over the legitimacy of the Norwegian burial regulations – practices he does not consider secular at all. For the church warden in Støren, France functions as the

46 "Naar uw opvatting hoe houdt de Wet op Lijkbezorging rekening met sekularisme of sekulariteit?" Interview Juridical Advisor in matters burial, 10 August 2012.

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exemplary case of secularism, distancing his own actions from that understanding. For the humanist in Trondheim (Støren case study), the meaning of a secular society does not fit existing Norwegian practices.

But there is nothing unique about Norwegian and Dutch respondents choosing certain words over others. As the mayor of Montreuil emphasized in the discussion over the confessional sections: "We should not frame this as a matter of *laïcité*. That would serve the extreme right …" As observed in the French context, naming or framing things as *laïcité* (or not) *always* implies an implicit normative stake.

7.6 Conclusion and Unexpected Finding

One central line of argument in this book has been that, instead of relying on national models (like pillarization) or categories (like secularism) for capturing or explaining what happens to Muslims or humanists when they make burial demands, we are better off using analytical tools that "take account of the ways in which government and other public actors view their social worlds and act in them" (Bowen: 2012, 354).

Hence, I set up the comparative investigation in terms of a generic (religious) governance framework. And I integrated into Bader's framework an explicit focus on discourse, drawing on Schmidt's discursive institutionalism. This allowed for analytic openness to the meaning-giving process of the everyday world, and for sensitivity to the usage of categories like religion or secularism. Yet, it avoided the methodological problems that Asad-inspired scholars run into by keeping constant the thing to be compared (namely, responses to these groups burial needs).

Furthermore, this book looked at scholarly proposals that suggest a range of normative scripts and schemas as better analytic tools. This chapter concluded on the relevance of a state-organized religion legacy for the public reasoning of the burial agents: first as an explicit argument. This indeed returned in the discourse surrounding the French and Norwegian contexts (action-guiding idea). Alternatively, agents situated their arguments for specific solutions against the backdrop of a narrative of state-church relations (issue framework). This again was mostly visible in France and Norway.

Third, I inquired into the relevance of the scripts of both the standard and the heterogeneous model. Dutch respondents talked about giving everybody their own spot, which can be interpreted (or not) as a concern with 'principled evenhandedness,' and there was reference to 'separation of state and church' in the discussion over the public funding of the Islamic washing-house. Yet nobody referenced pillarization.

Norwegian respondents tried to be evenhanded toward minorities in light of the Church hegemony. They thereby also confirmed the relevance of an 'establishment

script' insofar as agents take this hegemonic position as self-evident and given. This occurred as an explicit consideration but also as a tacit presumption. 'Municipal disestablishment' was not salient as an argument. But a former national senior advisor mentioned it as a reason for the 1996 Funeral Act. I substantiated it as an essential ingredient of the Norwegian mode of religious governance (see Section 3.3.3 and Section 5.3.4).

French respondents talked in terms of general normative principles: 'religious freedom of practice,' 'equality,' 'respect,' and 'neutrality.' At the issue level, *laïcité* mattered as *one* consideration (often a constraining one). Yet, respondents *also* situated their arguments in light of the *logique du terrain*, 'integration,' or 'being pragmatic.' And they weighed different elements of the French state-church legacies against each another. The neutrality of third parties is counterbalanced by more accommodating interpretations of *laïcité* (Paris contemporary). The mayor of Montreuil avoided framing in terms of *laïcité*. The Gallican script seemed relevant for the objection against private cemeteries. The 'associational freedom script' fits with *certain parts* of the mayor of Montreuil's reasoning.

In sum, the heterogeneous models were an improvement over the standard national models, in the sense that the more nuanced ones better describe the range of (normative) concerns at stake.[47]

Yet, I was cautious in attributing explanatory power to these institutional models. The nature of practical reasoning as encountered in the everyday world revealed a complex picture of (a) praxis and lower-level schemes, (b) different institutional contexts, their internal layeredness, and shared normative scripts between institutions, and (c) ultimately, the individual decision-maker that weighs these – different and often conflicting – commitments in the particular context.

Building further on the idea that some of the building blocks for practical reasoning consists of these scripts (that are shared between institutional regimes[48]), I would like to close with a further suggestion. Left undiscussed are cultural and confessional narratives: a level of ideas on par with Schmidt's distinction of public philosophy (Section 2.3.3). Might there not be a tacit level of 'secular' sensibilities that informs an agent's actions? Causal factors are not always visible in the discourse. And especially with a subject matter like religion, people's behaviour or attitudes often depend on implicit assumptions.

Returning to Asad's basic point in *Formations of the Secular*, sensibilities are something like 'naturalized attitudes' toward, for example, pain and agency, which already prevent certain citizen's actions and state practices. Even if respondents don't

47 I found this to be less the case for Norway, since my proposed script disestablishment was not mentioned as a reason in the discourse.

48 It is, of course, the scholar who first separates reality into 'variables,' only to then conclude that, in reality, these variables are interwoven.

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talk explicitly of secularism, and even if it is not an explicit issue they use to structure their justifications – points I now consider to have been sufficiently demonstrated – might they nevertheless be motivated by something like tacit 'secular' sensibilities? That depends again on what the scholar means by secular. Furthermore, *because* it is tacit, it is hard to find counterevidence.

7.6.1 Ways of Living and Sensibilities

Two examples in my material suggest something like sensibilities. They concern burial solutions that are seen as inconceivable from within the range of possible institutional options. I recall the interview with the Parisian *Chef du Service des cimetières* (hereafter *Chef du cimetière*).

> *Me:* Why are you against private cemeteries for Muslims in France?
> *Chef du cimetière:* Then it will happen what happened with the Catholics: They will exclude and decide who can be buried there and who cannot.

I countered his fear with the example of the Director of the Catholic Cemetery in The Hague, who had reassured me that he was not interested in exclusion whatsoever. Rather, they welcomed other denominations to keep their cemetery financially sound. Second, I said, this is a private domain. *Laïcité* only applies to the public.

> *Chef du cimetière:* I am afraid I must disagree. The state has a moral collective responsibility to take care of the cemeteries. I don't believe that one day the municipal cemetery will accept everyone, but that all the problems confessional communities have with their possible exclusion of members, I leave to their own.
> *Me:* But they do that already, don't they? They can already say in the private sphere: "We are a little club and we don't want you to be part of us!"
> *Chef du cimetière:* Yes, but that is civil society.
> *Me:* Well, but the private cemetery is also civil society, is it not?
> *Chef du cimetière:* Yes, but here I am a fervent believer. I do not want private cemeteries in France.
> *Me:* I understand that, but I don't understand why you see it as incompatible with *laïcité*. Why is exclusion a problem if it is already occurring within private groups?
> *Chef du cimetière:* No, not in death. In death one touches the sacred.

He has no further explanation for me why he fears this, other than appealing to a historical narrative of Catholic exclusion at the time of the French Revolution. (The mayor of Montreuil referenced a similar narrative justifying confessional sections.) My Dutch counterexample does little to change his mind. Or, when I tried to give a proper 'laic example' from another context: Zurich, a Canton in Switzerland, prohibits separate divisions of the public cemeteries for reasons of *laïcité*. Yet, Swiss law allows for the possibility of private cemeteries (Pfaff Czarnecka: 2004).

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In other words, as an abstract set of principles *laïcité* cannot explain why private cemeteries are unacceptable. This points toward another dimension in the discourse: the fear of exclusionary religious communities, what I would call an important sensibility for the administrator. And to this is coupled the responsibility of the state to prevent just that:

> Allowing for private cemeteries – ah, no, that is an untenable thought. You know we chased the nuns out of the public hospital! (...) That would violate our tradition; nobody could imagine a private cemetery here (*Mayor of Montreuil*).
> The collective has a responsibility to take care of its dead in an equal way, while taking their differences into consideration: Private cemeteries would create so much abuse (*Chef du cimetière*).

In Norway, too, the suggestion to provide for a private graveyard next to the Lutheran one was rejected outright: "Norway does not like privatization. We should all be buried next to each other in the same soil." And thus, like the church minister (Elverum), the KA representative suggested individually consecrating the cemetery by different faiths. That way we can all lie on the same Christian graveyard.

Norwegian respondents "jump" in their argumentation toward the humanists, similar to how the French "jump" in their argumentation regarding private cemeteries: They automatically transition from a humanist complaint about the church's administrative role, which is a principled and symbolic argument of administrative inequality, to a solution that offers 'individual consecration.'

A look at the explicit arguments shows that Norwegians don't like 'hard' or 'firm' divisions or private cemeteries, for reasons of 'social democracy.' The implicit premises behind this solution are that religious rituals matter. The representatives of the Parish Councils and Muslims alike tacitly agree on this. Humanists, on the other hand, are seen as 'political actors' – or worse as a 'protest movement.' Second, there is an implicit understanding that what matters is being *pragmatic*: "Well, then, I can be even more practical" (minister Elverum).

Different from France, consecration is an important framing issue. This leads my respondents to 'automatically' jump at the solution of consecrating the soil grave by grave. Because humanists can be accommodated by that solution, the force of their arguments is discredited.

7.6.2 'Secular' Sensibilities?

Where do these sensibilities come from? Are they 'secular' sensibilities? As it stands, I interpreted the objection against private cemeteries in France as a sign of *laïcité* and Republican thought. This serves as an explanation unique to the French context. But what about Norway, where we see a similar objection against private cemeteries?

Here there is no sign of 'Republicanism' or 'Gallican control'? Why are they too against privatization? And why do they, in a similar way, discursively 'individualize' the solution chosen? The Norwegian burial professionals automatically translate the humanist and Muslim demands into a solution of individual consecration.

I can give a satisfactory explanation at the level of issue frameworks: 'social democracy' and 'Lutheran establishment' internal to Norway, 'Republicanism' and '*laïcité*' internal to France. Note that I have not been able to give a good explanation what the consecration issue is part of: belonging to the soil or to Lutheran custom? Yet, at a deeper level, what unites France and Norway (and sets them apart from parts of the Dutch cases) might be a similar sensitivity and objection to too much 'groupness.'

Could the burial agents, in deciding how to give form to a confessional section or private cemetery, tacitly be guided by a basic binary of wholeness versus fragmentation?

I would like to propose this, albeit with a certain hesitancy. First, it is impossible to prove the motivations of agents. They might say one thing yet be motivated by another. Or, reversely, and as applicable here, certain motivating factors might have to be reconstructed from the discourse. Agents are not aware or explicit about these motives, but they rather pop up when you compare the language. Second, in face of the complexity of practical reasoning, I don't want to suggest that, ultimately, it all comes down to one basic theme. The level 5 of the chart suggests there are several leading themes: wholeness vs. fragmentation/separation as well as belongingness vs. alienation. That said, the striking discursive similarity across contexts concerning how to provide for a solution cannot be ignored. Compare the chart at level 5.

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Table 7.3 Discursive chart of the everyday world's reasoning, Part II/1

4. Cultural/confessional narratives and sensibilities	*Paris contemporary (FR)* Narrative of Catholic exclusion and role of state as protector of the individual Used to argue against private cemeteries Laïcité/Republicanisme?	*Montreuil (FR)* Narrative of Catholic exclusion Used to explain and justify Islamic sections Laïcité/Republicanisme?	*Lyon (FR)*	*Bobigny (FR)*
5. Metacultural frameworks: Wholeness versus fragmentation or separation Belongingness vs. alienation Health/disease metaphor Metaphor of a bed?	"I went to a recently constructed cemetery where there is a Muslim parcel, a Jewish parcel, a Christian parcel, and then the others. It was upsetting, it resembles the ghettos." (Anonymous)	"Allowing for private cemeteries – ah, no, that is an untenable thought." (Mayor)	Becoming part of French soil *L'inscription territoriale de la communauté musulmane* "Feel at home" (CrCM) "If in life we are together, why separate us in death?" (Advisor Chambéry)	Recognition, cure, and control (inferred motivations) Possibly health/disease metaphor

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Table 7.3 Discursive chart of the everyday world's reasoning, Part II/2

4. Cultural/confessional narratives and sensibilities	*Amsterdam (NL)*	*The Hague (NL)*	*Elverum (NO)* Narrative of consecration of the soil and belonging Lutheran dogma/social democracy?	*Støren(NO)* Narrative of consecration of the soil and belonging Lutheran dogma/social democracy?
5. Metacultural frameworks: Wholeness versus fragmentation or separation Belongingness vs. alienation Health/disease metaphor Metaphor of a bed?	"Feeling at home." No factionalism. (CIBA project) "Then we don't start thinking in factionalism (*hokjesgeest*), like: I don't want to lie next to you, or you." (Consultant LOB)	"To each mosque its own spot" "They don't have to be bothered with who lies on the other end." (Head of Department of Cemeteries)	"Collective religious rituals stand strong in small societies. There is a sense of belonging to the church and the churchyard." "If we do so we segregate in death what should not be segregated in life in a local community." (church minister) "I am not in favour of a patchwork strategy. "Do not segregate minorities in the graveyard." (KA representative)	"They should feel at home as we do." "(*helhet*) Wholeness, but we don't all have to be the same. "You will get some demarcations but still our goal is to see the graveyard as a whole." (Church warden)

One interpretation of this discourse is to see it as particular (cultural) variations of a general binary opposition. Rein/Schön (1994, 33–34) suggest a cross-cultural set of normatively guiding ground metaphors that guide the respondents reasoning:

> Institutional action frames are local expressions of broad culturally shared systems of belief, which we call metacultural frames. The oppositional pairs of disease and cure, natural and artificial, and wholeness and fragmentation belong to the realm of metacultural frames. Metacultural frames, organized around generative metaphors, are at the root of the policy stories that shape both rhetorical and action frames.

Relying on this idea of a metacultural framework allows us to find a deeper explanation of why Norway and France resemble each other in their *discursive* under-

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standing of the solutions (individualize the solution). Although they differ in the particular issue framework[49] ('Republicanism' for France and 'social democracy' for Norway), in contrast to the Dutch agents, they share scepticism about having too much groupness. Across national contexts, respondents talk about how inclusive or how separate the solution should be, and how people should feel at home and belong. There are even some indicators of an underlying organizing metaphor of sharing the bed.

But, regardless of the particular metaphor implied, this language suggests that the challenge of dealing with 'groups' might come prior to dealing with 'religion.' And, if I am right about this, at an even deeper layer it might point to the risk of scholarly overinterpretation along an Asadian scheme: The binary of 'secular' versus 'religion' is irrelevant – or only secondary to a ground binary of 'wholeness' vs. 'fragmentation.' And here lie the differences between national contexts.

In what we could interpret as the Republican discourse (at level 4 French cases), there is a direct link between being one undivided nation and what we could call secularity as a precondition for such unity (*note that I intervene!*).[50] Religion is seen as a potentially dividing and exclusionary force. As suggested on the issue of private cemeteries, Muslim cemeteries break with the idea of an unbroken relationship between the state and the individual citizen: First, because they are private institutions (clubs) and, second, because they are 'religious.'

Yet, this connection between an undivided nation (or bed!) and secularity is not made for the respondents in the Norwegian and Dutch contexts. The institutional format of confessional sections in these contexts is, first and foremost, a question of groups/collectives as well as the amount of visibility and legitimacy allowed in the public domain.

The concern of the minister in Elverum with (holistic, *helhetig*) integration leads him to avoid sections: "If we segregate in the churchyard (*kirkegård*), then that is an extremely strong manifestation of the idea that, 'No … here we are different, we are not the same.'" The church warden in Støren gives institutional form to 'respect' by allowing for some 'soft divisions,' without losing sight of wholeness (*helhet*). "We tend to our traditions, but nevertheless there should be an integrated solution." And that *helhet* was in turn loosely grounded in an interpretation of social democracy: "To achieve wholeness, we don't all have to be the same."

The Norwegian respondents are more sceptical toward fragmentation. ("I am not in favour of a patchwork strategy," KA man). That is why they resemble the French in the discursive solutions they choose. That it concerns 'religious' collectives does

49 In the terminology of Rein and Schön, this is called an 'institutional action frame.'

50 My respondents do not use these words or give this explanation. Yet, to present the best case possible for Asad, I suggest we could reasonably see it as being about an undivided and secular nation.

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not really change much. For the Norwegian burial professionals, being a religious collective is rather an advantage in matters of burial. Muslims can count on a large degree of understanding. There is no need or interest in making this about being secular or not.

Not all Dutch respondents are oblivious to collective demarcations. The institutional translation of 'freedom' and 'equality' occurred in the Amsterdam case, where "the individual choice of the Muslim" to be buried in the respective cemetery was emphasized as the leading consideration. This is somewhat similar to the French and Norwegian individualizing strategy. Factionalism among groups was not desired: "We don't start thinking in factionalism (*hokjesgeest*), like 'Oh, no, I don't want to lie next to that person, and I don't want to lie next to that person!'" Yet, the central question here concerned intragroup differences, not whether Muslims could (or should) have their own section. The latter was self-evident. The cemetery director in The Hague dealt more bluntly with group differences: "We just put some high hedges in between. They don't have to be bothered with who lies on the other end."

For Dutch respondents, all groups deserve a place around the table, *ieder zijn eigen plekje*. So, they don't spend their energy on deliberating this as a religious or state-church issue. It unproblematically is so.

In order to understand the differences and similarities in the discursive solutions chosen, it thus equally mattered to understand what respondents do to 'groups' as what they do to 'religion.' And it suggests that concerns at the level of sensibilities with being 'secular' manifest themselves only in the contexts in which the lived attitude toward religious collectives is one of (deep) distrust. Also, at this level of sensibilities then, we would have failed to understand relevant differences between national and local contexts, if framed in terms of 'secular' sensibilities.

Stretching my argument as far as possible toward Asad yields the question: Can we nevertheless not say that this is about secular sensibilities? Along that line of reasoning, the Norwegian and Dutch respondents fail to recognize it as explicitly secular sensibilities *because* their picture of religion is much more benign; religion is a nonissue for them, not a matter for explicit theorization. And because they do not see it as an explicitly religious issue, they do not see it as a secular issue either. Rather, the decisive issue is primarily one of groupness regarding the unity of the cemetery.

Once more, we *can*, of course, reframe some of the material as different secular sensibilities, by which the scholar then means different (lived and implicit) attitudes to religion. But why not state the research objective in those terms: 'lived and implicit attitudes to religion'?

Furthermore, to understand what gets done to Muslims and humanists, it only partially mattered to chart the respondent's implicit attitudes toward 'religion.' It proved equally important to note when it was *not* about 'religion' (or the 'secular').

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The more implicit motivations of agents for choosing institutional solutions were rather – or at least equally as much – about what to do to groups. And instead of being about 'religious' versus 'secular,' it is rather about how 'whole' versus 'fragmented' the cemetery should be.

7.6.3 Full Circle

This has brought us full circle. Going back to the discussion of Asad, Hurd, and Dressler/Mandair (Section 2.3.4), it has now become obvious why their heuristics would fail to capture this reasoning of the everyday world. In my understanding of the everyday world, the actions or practices at hand can be about religion – or *not*. Second, if conceived as being about religion, this is not automatically coupled to an understanding of the secular for respondents.

Yet, the underlying presuppositions in the framework of Asad, Hurd, and Mandair fail to allow for the specification of the noncase. Asad's study of "formations of the secular" avoids any operational definition of the secular phenomenon under study and fails to specify what is *not* a case. These scholars' shift to the deployment of categories rather than their definition suggests that they can stand neutrally on the sidelines just 'charting deployment.' But this fails when *no* deployment is going on.

Second, their analytic frameworks exclude the possibility that, for the layman, something can be about religion but has nothing to do with secularism or being secular (see quotations in Section 7.5.2). Vernacular understandings of secular or secularism evolved for Dutch and Norwegian respondents around a standard picture of France, being "nonreligious," "like France," "removing most the symbols." Yet, for example, "meeting other believers with respect" was *not* understood as secular reasoning (church warden Støren). Nor could one denote current burial regulations in Norway as secularism or secular. "The Church of Norway is in control, so I do not see how that can be secular" (a humanist from Oslo).

These nuances cannot be addressed in Mandair/Dressler and Hurd's framework. As soon as something is construed as religion, secularism is always implied. Such a position aligns with a very particular genealogical and epistemological understanding of the secular in which secularism comes first and then gives rise to the category of religion (see Section 2.3.4).

In other words, the meaning and conceptual hierarchy of the terms in the everyday world fundamentally contrast with that of the Asadian scholar. Consequently, looking through their analytic lenses, we misunderstand the everyday world. Rather, we find the implicit Asadian epistemological picture reconfirmed.

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Conclusion: A Comparison of State Responses to the (New) Diversity in the Cemetery

8.1 Introduction

How do different states respond to similar situations of (new) religious and cultural diversity? That is the key question this book has sought to solve by looking through the prism of cemeteries. By means of a comparative and multileveled study of how three states respond to a common challenge, namely, the need for special burial facilities for Muslims, it provides a striking image of societal accommodation in Norway, The Netherlands, and France.

This book addresses two instances of 'new' religious and cultural diversity: the demand of Muslims for graves that face in the direction of Mecca and the related desire for collective sections in public cemeteries, or rather a separate Islamic cemetery. In Norway, we also focused on the humanist demands for neutral ceremonial rooms and a neutral governing institution instead the Church of Norway.

Clearly, the characterization of the presence of Muslims in Europe can be called 'new' only if we choose to disregard the heritage of European colonialism, the Ottoman Empire, and the previous Spanish Muslim Caliphates (cf. Bader: 2007b, 871). Furthermore, the 'newness' of humanist burial needs lies not in any migratory events but occurs because of ongoing internal social changes in Norway. Nevertheless, recent changes in the repatriation pattern of Muslims (that differs among the various Islamic groups) have brought the question of Islamic burial to the fore. An increase in the overall number and a changing attitude toward the place of burial over the generations has resulted in new burial preferences. Likewise, the humanist dissatisfaction with the Lutheran burial governance has gained salience in light of an increasingly pluralized and secularized population.

So, a certain sense of newness seems fitting concerning the selection of burial challengers. Furthermore, this occurs because the topic of Muslims living in Europe has only in the last decades become so contested. Up to the 1990s, the religious background of post-1945 immigrants to Europe was largely a nonissue. Yet, events like the Rushdie affair, the Iranian Revolution, and of course the terrorist attacks brought this particular religious dimension to the forefront.

Rather problematic, as by now many have pointed out, is the resulting public debate, which tends to be carried out based on a set of binary oppositions that posit Muslims as the religious backward other of Western modernity and secularity.

Alternatively, the attitude toward Muslim immigrants and their institutional needs can be informed by what Asad would call secular sensibilities, that is, au-

tomatic ways of responding that depict certain practices as very cruel or even inconceivable in Western society (e.g., animal slaughter without a sedative, the wearing of the niqab), whereas other solutions are deemed acceptable. This occurs while conveniently forgetting how Western institutional practices entail their own cruelties or are coloured by their own specific religious past.

Clearly, this does not mean declaring animal slaughter without sedation is not cruel, nor does it mean accommodating all demands. Rather, we must turn our analytic gaze toward Western categories and understandings of what constitutes secularism. And this turn toward secular self-understanding as an object of analysis – be it anthropologically, sociologically, or philosophically – is what gave impetus to the research agenda of 'the multiple secularisms,' as discussed in the Introduction.

This book repeatedly refers to the work of Asad, one of its leading scholars, because his emphasis on sensibilities is a main ingredient in the question: "What do states do to the Muslims or humanists?" Yet, my analysis departs from Asad – and the fashion of the day – by calling these practices or sensibilities 'secular' or 'secularism.' This study finds that such a scholarly interpretation overdetermines the meaning-making process of the respondents. Thus, instead of approaching the burial challenges in Europe through a predetermined analytic framework of 'comparative secularisms,' as I initially had set out to do, in the end I chose a more standard historical, institutional, and comparative approach.

Under the banner of a multileveled discursive (religious) governance approach, this book contends the following: How states currently respond to the burial needs of Muslims and humanists must be understood against the backdrop of (various) historical institutional structures, the role of local burial agents charged with burial praxis as well as the role of the minorities themselves. In particular, it hypothesizes – and confirms – the relevance of a legacy of state organized-religion relations as an important institutional structure.

To see what states actually, and not just legally, do to (religious) minorities, we first mapped policy responses at three levels of society over time. Second, we looked at the claims of Muslims and humanists as shaping institutional arrangements. Lastly, as part of a study of everyday practice and municipal application, we distinguished between institutional and discursive responses. How states respond to cultural and religious diversity in their public domain depends largely on framing: what public agents see this as the main issue.

Why ask this question of a legacy of state-organized religion relations and resort to such a level of empirical and discursive detail? I have three reasons.

First, in the scholarly debate concerning Islam in Europe, one consistent issue remains, namely: Can we observe an overall trend of convergence between public policies in the various countries? Do countries become similar over time? Or do they retain their national and peculiar differences?

Second, as part of such a question: How should scholars conceptualize such

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national legacies/models? There exist a wide range of national overview studies that chart *the* French, *the* American, *the* German way of dealing with new minorities. These traditions are often portrayed in rather stereotypical ways. 'French *laïcité*,' 'Dutch pillarization,'[1] or 'Norwegian establishment' – authors argue that these are important factors in explaining how these countries react to newcomers.

Yet, the problem with crude conceptualization is that these labels are often inferred from particular time periods. And there is a tendency in the literature to use descriptive stylized models as explanatory factors. Thus, for example, the fact that France falls descriptively in the category of ideal typical Republican countries could somehow explain a public speech on immigration, attitudes *vis-à-vis* Islam, or a women's decision to wear a veil (cf. Bertossi/Duyvendak: 2012, 239). But not only does this confuse descriptive relevance with explanatory relevance, it also presumes an all-encompassing normative structure that somehow drives individual behaviours, social movements, and public opinion.

Furthermore, national overview studies typically look at legal and formal forms of regulation. Yet, as some predict, the gap between "predominant normative models of appropriate institutions and policies and 'what is going on, on the ground'" (Bader: 2007b, 880) is huge.

The costs for doing comparative research are then twofold: Not only do such approaches stand in the way of individual scholars' adequately comparing institutions and social interactions, they also define the research agendas that "have a structuring impact on the international literature – a paradigm in the Kuhnian way" (Bertossi: 2012, 250).

This is then the third reason for a detailed inquiry into the relevance of state-church legacies as well as secularism: Scholars need models or analytic categories to help reduce complexity, but they risk reification with overly one-dimensional ones. This applies to the work of the individual scholar as well as to metalevel discussions over appropriate concepts for the global study of religion or Islam.

And it is this challenge of reification that links my discussion on national state-church models with that of a conceptual discussion on secularism.

To address this challenge, this book proposed a two-pronged strategy entailing a back-and-forth movement between: (meta-)theoretical/conceptual frameworks and empirical data; between scholarly terminology and the everyday language and actions of professionals. The close relationship between project and research questions further reflects such a two-pronged concern.

At the most general level, I asked: How do states respond to the new religious and cultural diversity? And what scholarly frameworks or concepts are best suitable

1 See for example Koopmans/Statham/Giugni/Passy: 2005.

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for international comparisons of these responses? I answer these project questions in Section 8.5.2.

At the second most general level, I asked three research questions:

> 1) What are the institutional and discursive policy responses to Muslim and humanist burial needs, compared among countries over time and at three levels of governance? What similarities and differences do we observe?
> 2) What role does a state-organized religious legacy or national repertoire play in determining burial outcomes?
> 3) How is secularism used and argued for?

As a first step in this analysis, Chapters 3, 4, and 5 compared institutional and discursive policy responses to Muslim and humanist burial needs at the legal level, the national policy level, and the municipal level. A fine-grained answer to the first question is summarized in a Master Table later in this chapter. The most central finding here was that of astonishing legal differences, yet surprisingly similar actions. I then tried to make sense of the above puzzle in light of state-organized religion legacies or ideas concerning secularism.

To answer the second research question about the role state-organized religion played, I followed Bowen in distinguishing between a state-church model as a 'model of' and 'model for.' The former tries to describe a given reality, i.e., it is a descriptive analytic tool. The latter is a discursive resource used for specific purposes. Thus, Chapter 6 summarizes the extent to which legal and material municipal policy outcomes agree with the expectations based on the standard state-church models; '*laïcité*,' 'pillarization,' and 'establishment' as well as the more nuanced models as 'models of.' Chapter 7 summarizes the extent to which these models, or their scripts, turned up in the public reasoning of municipal burial agents as 'models for.'

The short answer to the second research question is that the legacies of state-organized religion better describe legal outcomes and some of the ways in which burial agents publicly reason than they capture material actions. They return in the public discourse of French, Dutch, and Norwegian agents, albeit not in their actions.

To answer research question three "how is secularism used and argued for?", we looked at how burial agents and Muslims/humanists justify the solutions chosen. The short answer is: In the Dutch and Norwegian everyday worlds, secularism is *not* used and argued for.

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8.2 Reification

Before I address these outcomes in further detail: What is at stake in this investigation? For the nonspecialist, these distinctions (i.e., between 'model of' and 'model for') might appear far removed from a public discussion over the accommodation of Islam or new minorities in Europe. By means of its two-pronged strategy, this book tries to show that scholarly framings and concepts are in fact closely connected to such discussions.

Scholars have the obligation to inform public opinion with nuanced accounts of state responses to new minorities, far removed from reified one-dimensional pictures. This means they first must know what actually happens; hence, the detailed everyday institutional, discursive and material approach. Further, such factual investigation should be amenable to being translated into good scholarly concepts that capture such complexity, beyond the grand narratives of 'multiple secularisms.' And at least for research projects that claim an interest in everyday life analysis, scholarly concepts should be informed by lifeworld reasoning and not obstruct comparative analysis.

The connecting point between these two arguments is the relevance of discourse and challenge of reification. As part of their knowing what happens, scholars should take public reasoning seriously. How states respond to cultural and religious diversity depends in part on framing what public agents see as the main issue. But discourse can also mislead and overemphasize national differences. It should thus be complemented with material analysis and an investigation of a broad range of factors.

It was not self-evident to recognize this relevance of the material reality as something distinct from the discourse. A short anecdote as illustration: At the end of my first fieldtrip in France, I truly thought that the French burial agents saw these sections as "the aggregate of individual choices according to confessional lines." I really believed that the few existing cemeteries were indeed historical exceptions or anomalies. (I had read all public documents and legal texts.) And both the Muslims respondents in the field and the burial representatives structured their reasoning in terms of *laïcité* and its constraints (NB: they also mentioned other concerns). Also, the work of a scholar like Nunez, on whom I relied, replayed some of this ideology.[2]

Thus, not until my second round of fieldwork and visits to the cemetery of *Pantin* and *Thiais* did I begin to understand that they reason and reconstruct their history

2 Nunez (2011) discusses the range of Muslim (and Jewish!) accommodations occurring well before the first decree in 1975. But it is unclear whether her wordings of "these discretely negotiated spaces" reflect her own contemporary concerns with *laïcité* – or whether they describe the way in which the matter was seen at the time. I make a similar point about Petit (2006); see discussion on Bobigny.

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that way. On the other hand, they provide for sections that do not differ in any material way from the Dutch or Norwegian ones. Moreover, they have *always* done it this way. Many Jewish sections have long existed (since its inception in 1886, laic *Pantin* has been referred to as 'the cemetery of the Jews'!). And of all countries under investigation, France has the *most* Muslim cemeteries.

In other words, the institutional solutions chosen in the countries studied was even more similar than I had initially presumed (or the French were much less *laïque* than they self-proclaimed). Yet, it remained significant, of course, that French cultural/confessional sections have no legal status and are conceptualized in that way. Such dealings reveal a socially charged climate that is very real for the Muslim families involved, namely, a frustrating situation in which families have to rely on the lobbying expertise of their burial agent to obtain a place on a section in a neighbouring municipal cemetery. Likewise, some of the administrators express real frustration over the lack of coherence between legal rules and everyday reality and their consequent need to "juggle words."

So, what to make of all this? To be clear: What this book claims is not that consideration of public reasoning is futile; in fact, looking at public and everyday reasoning is of great import for understanding what happens. Yet, this is only *part* of what happens. To take the French example, reification occurs when we mistake the discursive salience of *laïcité* for an explanation; it occurs when discursive reality is taken as representative for all reality, disregarding material reality; and it occurs, as I conclude further on, with respect to the usage of secularism, when scholarly framing is not in line with the reasoning of the everyday world under investigation. I address the theme of reification in more depth in Section 8.5.1.

8.3 Summary of Burial Patterns

Having briefly oriented the reader toward the theme of reification, we turn to a discussion of burial outcomes at different levels. This provides a detailed answer to research question 1. Section 8.4.1 provides detailed answers to research questions 2 and 3. And Section 8.5, finally, discusses the main theoretical and metatheoretical implications of the book's findings.

8.3.1 Legal Burial Outcomes and Comparative Reflections

France governs its burial domain through a collection of articles in the French local government code of practice. The cemetery is perceived as an *ouvrage public*, a public work, that is "public, mandatory, and secular." The Napoleonic Decree of 1804 effectively abolished confessional cemeteries, with the exception of some Jewish and Protestant cemeteries; since then, only the municipality can maintain, create, or

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extend cemeteries. Further exceptions are three departments in the region Alsace-Moselle (Haut-Rhin, Bas Rhin, and Moselle), which still operate under regulations of the Concordat.

In 1881, separate confessional parcels were legally prohibited, and an 1884 law stipulated that the mayor of a municipality should not make "distinctions or recommendations based on the faith or religion" of the deceased (Article L2213–9). The final formative moment was when Article 28 of the 1905 Law on the Separation of Churches and the State was enacted, which prohibited the display of religious symbols in the public parts of a cemetery. Symbols became permitted only on individual graves, where they signify the private expression of confessional or cultural affiliation in an otherwise neutral public space.

By contrast, The Netherlands allows for a wide variety of cemeteries. Primarily regulated by a national burial law, the "Bill on the Disposal of the Dead," cemeteries can be public or private. Since 1827, each municipality has the obligation to provide for a municipal cemetery or to share one with a neighboring municipality. Only one-third of all cemeteries are owned, administered, and paid for by municipalities, whereas two-thirds fall under the category of "special cemeteries" [*bijzondere begraafplaatsen*]. This means they are owned by various confessional groups or by private legal entities (foundations, companies).

Despite liberal attempts to abolish confessional graveyards altogether, religious communities have secured the right to their denominational cemeteries. And in cases where they cannot afford these, they have the right to claim parts of a public cemetery. And these rights are extended equally to Catholics, Protestants, and Jews. Financial considerations have also played a role in maintaining confessional graveyards. Many municipalities objected to shouldering the costs of creating a municipal, nondenominational cemetery, resulting in a wide range of burial options.

In Norway, two primary laws govern the burial domain: the 1996 Funeral Act and the 1996 Church Act, both of which were altered since January 2012. The Funeral Act satisfies individual equality for all because it does not discriminate based on religious affiliation and provides a free grave for everybody for at least 20 years. It expresses a concern for collective religious freedom, inasmuch as private confessional (and therefore Islamic) cemeteries are allowed. The updated Funeral Act says nothing about confessional sections. Para. 6 allows for "Burial in a grave that is adapted to the particular needs of the religious or nonreligious communities." The solution has thus been individualized rather than constituting a right to a collective section.

The legal and institutional differences in the three countries are immense. The French cemetery has a strong symbolic dimension as a laic public domain in which all Frenchmen and Frenchwomen are united and should be treated equally. In the Dutch burial domain, the principles of individual and collective religious freedom are most prominent, resulting in a wide range of burial options. Dutch cemeteries

are more prominently seen as pieces of land and objects of financial consideration. But the legal reasoning also contains strong respect for the logic of the terrain and church autonomy. In Norway, as in France, burial regulations are informed by a concern for individual equality. Yet, unlike France, Norwegian public cemeteries are seen as the explicit embodiments of a 'cultural/Christian' heritage, downplayed in the language of the latest legal reforms.

State-church relations have played a formative role along with concerns of hygiene and public health. French burial regulations are informed by anticlerical sentiments and political attempts to reduce the power of the Catholic Church. Dutch burial regulations were shaped in the context of several religious minorities, who wished to safeguard their cemeteries against a Dutch Reformed status quo and liberal secular proposals to abandon confessional cemeteries altogether. In Norway, the Funeral Act and Church Act, both of which to date still govern the Norwegian cemetery, were shaped in the context of a historical Lutheran monopoly and homogeneous population.

We can expect substantial differences in the degree to which Muslims are able to obtain Islamic burial facilities in these countries.

8.3.2 National Policy Outcomes and Comparative Reflections

At this level of analysis, there are some clear national differences, but some findings do not conform to this picture. If we take the numbers of available burial facilities as a first indicator, for an estimated Muslim population of 3.3 to 4.9 million (5.1–7.5% of the total population), France has two Islamic cemeteries and about 75 Islamic sections in public cemeteries. The Netherlands, for an estimated 696,000 to 1 million Muslims (between 4–6% of total population), has one Islamic cemetery and about 70 Muslim sections. Norway, for an estimated Muslim population between 133,000 and 197,000 (2.5–3.7% of the total population), has no Islamic graveyards but sections on public/Lutheran graveyards in 20 to 50 municipalities.

Beyond sheer numbers lies the substance of institutional responses. In France, the prohibition of confessional sections as well as burial without a coffin and within 24 hours of death makes a proper burial according to Islamic custom problematic. Over time, however, sections have been hesitantly legitimized by means of a public framing of the matter in terms of 'immigrant integration' and 'finding pragmatic solutions.'

The 1975 administrative directive (*circulaire*) by the Ministry of Interior stipulated that a mayor can – but is not obliged to – construct "confessional groups of graves under the condition that the neutrality of the cemetery is particularly preserved." The directive sought to settle the issue without constitutionally challenging *laïcité*. It has remained the prevailing strategy for all subsequent directives (1991

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and 2008). Since 2000, there have been several initiatives at the national level to further improve the situation, see Section 4.2.1.

The political uneasiness stands in marked contrast to the Dutch situation, where attitudes toward Muslim parcels and cemeteries have changed only minimally over time. As early as the 1980s, there was discussion of adapting existing burial laws so as to remove all remaining obstacles to Islam and other religions. Burial without a coffin has been allowed since 1991. As in France, plans were made for additional Islamic burial facilities, especially in cities with larger Muslim populations (such as Amsterdam). But these initiatives resulted from decisions made at the municipal level – or they occurred in civil society without involving the national government.

The reality of Norwegian burials is striking compared to the other countries. 90% of all Norwegians are buried according to church ritual, a number that has remained stable over the years. Less than 15 cemeteries exist with a private confessional status.

How does this affect Muslims and humanists? For Muslims, there is a generally accommodating attitude: A national overview study indicated that there is good cooperation between the Norwegian Islamic Council and the Joint Parish Councils. But the wish to provide delineated sections is not always welcomed in certain areas outside Oslo. This scepticism was also translated into law: Para. 5, which in the previous Funeral Act allowed for consecrating parts of a churchyard for religious communities outside the Lutheran faith, has now been removed. The new passage mentions only the possibility of consecration – as long as one does not show disrespect toward other communities.

With respect to humanists, we noticed two main objections: the lack of neutral ceremonial rooms and the principled objection against the administrative Lutheran dominance. Over time, the political establishment responded here with a similar reaction as the French toward the Muslims: informally accommodating minorities but not changing the actual law.

Thus, when comparing countries at the national political level over time we saw that, both institutionally and discursively, there are real differences. These align with the social imaginaries and normative logics encountered in the legal frameworks (Chapter 3).

The Muslim issue is more contested in France, whereas in Norway the discussion is held only on the part of humanists. The most significant differences pertain to the prescribed institutional features of the French *carré* and, for example, the Dutch section. The French parcel cannot be visibly demarcated from the rest of the cemetery and cannot be mentioned as an official part of the cemetery. Allocation results only from the explicit wish of the deceased or the family. Dutch sections in turn can be visibly demarcated from the rest of the cemetery and are reserved for citizens of only one confession. And allocation to such a grave is dependent on the local agreements but can be decided on by the religious leader. In Norway, explicit regulations are absent altogether.

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But the comparison also suggests some departure from these national images. If opportunities for Muslims in France are constrained by *laïcité*, why are there nevertheless still 75 *carrés*? And why does France have the most Muslim cemeteries of all? Why are there not more Muslim cemeteries in the 'pillarized' Netherlands? In Norway, there are no Islamic cemeteries, despite their legal permissibility. And regarding humanists, why did the Norwegian state charge the church with responsibility for the public graveyards in 1996, at a time of increasing pluralism? The question of burial administration has been ongoing since the early 1980s, the dominant transition over time being that various public and church committees only *advise* municipal responsibility. Yet, the state has upheld church administration.

The three countries do converge in their desire to resolve practical problems related to Muslim migration. Within a relatively short timespan, Norway has provided for the relevant sections, which without doubt is related to the specific repatriation behaviour of Norwegian Pakistani Muslims. Furthermore, France appears to be 'catching up.' Yet, as the embedded case studies show, formal policies reflect only one aspect of the overall picture. By looking solely at national initiatives, we miss one of the central dynamics for accommodation.

8.3.3 Local Embedded Cases and Municipal Outcomes

The embedded cases at the municipal level of analysis revealed four interesting aspects. First, central to the complaint of the Norwegian humanists, a second set of municipal arguments could explain why the Church of Norway was given administrative responsibility for the cemeteries in 1996. Second, not only do nearly all municipalities provide for a designated area for Muslims on the public cemetery, these sections are also entirely similar in appearance. Third, an in-depth historical analysis of the Paris region showed that confessional sections in France still exist, albeit not because of their political allowance since the 1970s or because of the public framing in terms of 'immigrant integration' and 'finding pragmatic solutions.' Rather, confessional sections and Muslim cemeteries existed long before the 1975 decree. Moreover, they came from a dynamic on the ground: Families bought rows of concessions, resulting in confessional sections. Fourth, there remain clear differences in the discursive understanding among the three countries.

I recall the example of the conservator at *Thiais* and her 'privatizing reflex' when I asked her why she had a map of *Thiais* above her desk (Section 2.4.2). She blushed and was clearly embarrassed. But the Norwegian respondents too have reservations and choose to solve the matter by 'individual consecration.' Dutch burial agents have no problem allowing for sections. In The Hague, seven mosque associations each have their graveyard sections in the municipal cemetery of *Westduin*.

These discursive differences also appear in the respondents' understanding of the proposed solution. The French reduce the section to a "regrouping of the results

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of individual choices." They refrain from calling a hedge around a Jewish section a religious symbol, instead deeming it a "piece of vegetation" (Montreuil). And a Jewish ossuary is not necessarily a "Jewish ossuary," but "the remains of the deceased in that division, who all happened to be Jewish."[3] Norwegian respondents talk about the section as "a manifestation of difference" (Elverum), proposing "soft sections" (Støren). The Dutch understand these sections to be strong collective demarcations.

Of course, juggling words is not only a French thing. The CIBA project in Amsterdam speaks of a "multifunctional facility" rather than an Islamic washing facility. But the French consistently navigate between formal ideology and the logic of the terrain. The Dutch light-heartedly frame their arguments in terms of financial and urban-planning concerns. The Norwegians speak a whole lot about "consecrating graves."

8.4 Comparative and Explanatory Reflections

So, what is the overall picture? Do countries converge in their response to newcomers? Or do national differences remain that can plausibly be linked to path-dependent repertoires? The answer depends on where scholars look.

Comparing burial solutions at the legal level, there is evidence for stable (national) differences between countries over time.[4] The national repertoires are furthermore reflected in parts of the public reasoning across national contexts, particularly visible at the municipal level. Yet, these national differences dissolve when we compare actual practice. Rather than explaining these commonalities by means of a convergence thesis – "a Western response against the perception of an anti-Western threat!" (Minkenberg: 2007, 2) – I conclude, as we will see, much more soberly, by deriving them from a multiplicity of factors, among others, that of praxis and the logic of the terrain.

3 These are my words summarizing the respondent's answer. See Paris contemporary, Section 4.4.1.2.

4 Chapter 2 provides nuances on this. The French legal burial regulations became more laic over time, going from municipalization (1804) to laicification (1905). The Dutch legal regulations moved from confirming the Reformed status quo to pluralization with the first burial law (1869). Thereafter, they remained quite similar over time. The latest legal changes integrated concerns with burial without a coffin (the 1980's). The Norwegian burial regulations moved from being completely within church governance in the law of 1897 to establishing their own law in 1996 and an increased concern with religious pluralism and evenhandedness in the reformulations of 2012, i.e., from *kirkegård* to *gravplass*.

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8.4.1 Answers to General Research Questions 1, 2, and 3

So, why do burial agents come to such different discursive answers, yet similar institutional actions? And what is the role of state-organized religious legacies or ideas about secularism? Finalizing an answer to our research question 1, I have constructed the Master Table below, which summarizes the legal, national, and municipal patterns described above. This table summarizes the findings from Chapters 3, 4, and 5, thereby compiling the tables in Chapter 6 and 7.

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Table 8.1 Master table: Institutional (material and legal) and discursive policy outcomes at three levels across countries

Countries	France	The Netherlands	Norway	In line with *laïcité*, pillarization, establishment?
1. Legal frameworks	Prohibition confessional section & cemetery Discursive: cemetery is seen as a laic space where equality for all is secured.	Confessional sections and cemeteries are a legal group right. Discursive: cemetery as an object of urban planning, commercial exploitation Strong respect for logic of the terrain and church autonomy	Undefined for sections, cemeteries are a legal right. No legal right to a neutral ceremonial room. 1996 change. Discursive: cemetery is embodiment of a cultural and Christian heritage.	Yes. Legal and discursive outcomes reveal strong national differences in line with respective state-organized religions legacies.
2. National policies and existing provisions	Existence of two Muslim cemeteries and many Muslim sections Political decrees since the 1975's encourage practice of confessional sections, not cemeteries. Discursive: Politically a tense topic Active state attempt since the 1980s to develop a policy toward Islam Prescribed format of the *carré*	Many confessional sections, only *one* Muslim cemetery Not concern of national policy, last revisions in the 1980s regarding burial without a coffin Discursive: unproblematic	No Muslim cemetery, multiple sections Public and Church reports regarding the question of burial administration Encouraged practice for neutral ceremonial room, no legal changes Discursive: Tension not among Muslims but among humanists	These strong national differences become less clear when including existing material provisions. Discursive: there are clear, national differences in terms of political tension.

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3. Embedded cases/Municipal practice	Paris, Lyon, Montreuil (FR)	Amsterdam, The Hague (NL)	Oslo, Støren, Elverum (NO)	In line with *laïcité*, pillarization, establishment?
3.a Institutional Material/legal	Material: Confessional sections exist and have existed historically, materially similar to the Dutch ones. Legal: section has no status, does not exist.	Material: Range of confessional sections, one Muslim cemetery and public financing of washing-house Strong legal status: with and without confessional governance	Material: Confessional sections on public cemeteries (not Elverum) Unclear legal status	Materially, there are no national differences; no clear relevance of state-church legacies. There are national differences in legal dimension of confessional section.
3.b Discursive Similar action-guiding principles 'equality,' 'respect,' and 'freedom' Difference in the framing	Discursive: Section is 'aggregate of individual outcomes.' Juggling with words, tense, privatizing reflex, individualizing the solutions chosen Seen as matter of *laïcité,* the burial laws, *logique du terrain*, professional codes/pragmatism, and to some extent immigrant integration Only here is secularism seen as a framework issue. Occasional explicit choice to frame in terms of 1905 law and *not* as *laïcité*	Discursive: Section with and without governance No contestation whatsoever, some disagreement who is a *kerkgenootschap* or Islam. Islamic washing-house is called a 'multifunctional facility.' Is seen as matter of burial law, financial and urban planning concerns, and to some extent integration and state-church relations. No references to secularism and is only seldom seen as an explicit state-church issue. There is no explicit reference to the logic of the terrain, but it is carried out in practice.	Discursive: Understood as 'soft sections' and 'individual consecration' Uneasiness with strong demarcations: They 'individualize' the solution. Is seen as matter of pragmatism, consecration, state- church history, integration (and professional code). No reference to secularism but is seen as state-church issue.	Similarity in 'individualizing' the solution, France and Norway Clear discursive differences in terms of social/political tension *Laïcité* comes back in the French discourse (yet bad explanation of outcomes). There is no mention of pillarization. State-church issue is rarely mentioned. 'Establishment' is prominent framing issue in Norway (a partial explanation for 1996 change).

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On to Research Question 2: What role does a state-organized religious legacy or national repertoire play in determining burial outcomes?

Legally speaking, burial outcomes correspond to what one would expect from the standard pictures (see first row in Master Table). Furthermore, this aligns with the genealogy of the countries' burial legislation and state-organized religion relations. The latter played a central role in the formation of the first burial laws in France and The Netherlands, together with concerns of hygiene and public health (see Section 3.2). In Norway, even recent changes in the Funeral Act (2012) went hand in hand with changes in the larger state-organized religion framework.

Yet, as I established in Chapter 6, when trying to understand similar material outcomes,[5] the descriptive powers of the state-organized religion models are narrow. This was true for the standard version, and it gave rise to three national puzzles. Could perhaps the more nuanced models better capture outcomes?

Only for France did the more heterogeneous version do a better job anticipating Islamic sections and cemeteries. The Gallican element in the model, namely, the French attitude of granting state support but also control over Islam, might lead us to expect the existence of a Muslim cemetery like Bobigny. And the 'associational script' of supporting the formation of associations (both cultural and religious) might lead us to expect that mayors would want to provide for collective sections nonetheless. However, a multitude of reasons played a role, in particular the logic of the terrain and praxis.

For The Netherlands, principled pluralism and separation tradition was an improvement over 'pillarization' by removing the expectation of a pillar. Yet, it could not anticipate the lack of Muslim cemeteries or the public financing of the Islamic washing-house. This was rather the result of Islam's own organizational structures (factors of internal governance). The public financing of the washing-house in Amsterdam resulted from concerns with citizen integration, which outweighed concerns over the separation of state and church (external factors of governance).

For Norway, the designation 'establishment' seemed to explain many outcomes (Breemer: 2014). Yet, the lack of Muslim cemeteries resulted more from internal factors of governance (Muslims' failing interest in organizing their own cemeteries). But the absence of public financing of confessional cemeteries also might play a role.[6]

The legal change in 1996 I viewed as resulting from a disestablishment script: '(local) disestablishment of the church from the municipality with the aim of establishing the local church among the people' as well as the continuing Lutheran hegemony. A more refined and dynamic characterization of the Norwegian model

5 See the number of provisions at both the national and the municipal level, Table 8.1, rows 2 and 3a.

6 This occurs although the Lutheran public graveyard is paid for by the public budget.

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better addresses this. Its different strands – establishment, compensatory even-handedness, municipal disestablishment – conflict or coincide over time. Support for one strand over the other varies depending on the level of governance. Thus conceived, the 1996 legal act makes sense as a further 'disentwinement' of local church and municipal interests. At the same time, it confirms the wish of the national political majority to retain the church as a central cultural/value foundation for the public domains of the state ('establishment') (see Section 6.3).

Bader's metaframework came to fruition for explaining the lack of Muslim cemeteries in The Netherlands and Norway.[7] Differences in the internal organization of Islam and Judaism explained this better than external factors of governance. My Actor Institution Constellation Chart (Section 6.4.2) visualized the layered nature of internal and external factors of governance.

In my explanation of the existence of confessional sections, I suggested a 'multiplicity of factors' and a 'multiplicity of means': (1) The influence of (various) institutional regimes, like 'integration,' state-church regimes, etc., and in The Netherlands also concerns with urban planning and commercial exploitation. (2) There is a 'multiplicity of means,' to meet the demands of minorities. Both France and Norway chose to keep their laws intact while finding pragmatic solutions to accommodate both Muslims and humanists. (3) Most significant for this domain, there is a basic ground reality: Families or groups of a particular affiliation desire – and exert pressure – to be buried together. Analytically, this passes as an internal factor of governance. Their behaviour resulted from a certain way of doing things, and this has left its material traces in the cemetery. But this has also become part of professional burial praxis (external factor of governance).

In sum, state-organized religion legacies have impacted the original formation of the burial laws. But in the complexity of everyday governing, they are overruled or outweighed by other concerns (among them the logic of the terrain). This explains, I think, a good deal of what happens materially. Yet, this should *not* imply that these legacies are irrelevant.

8.4.1.1 Discursive Relevance of State-Organized Religion Legacies

To summarize the analysis of Chapter 7, state-church legacies formed an explicit argument in the discourse of the French and Norwegian agents: "I do this because of the history of state and church" (action-guiding idea). Or the agents situated their arguments for specific solutions against the backdrop of a narrative of state-church relations (issue framework). This was again mostly the case in France and Norway.

7 Jews have many cemeteries in The Netherlands and some in Norway, while Muslims in both countries have none (or only one in The Netherlands).

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Third, I inquired into the relevance of scripts hypothesized as falling under the Dutch, French, or Norwegian more nuanced state-organized religion models.

Dutch respondents talked a good deal about giving "everybody their own spot," which can be interpreted (or not) as a concern with 'principled evenhandedness.' And there was reference to 'separation of state and church' in the discussion over the public funding of the Islamic washing-house. But I found no reference to 'pillarization' in the discourse. Dutch agents do not often explicitly reference a state-organized religion legacy as the context for their ideas. My guess is that the scripts within the Dutch church-state regime conform with the basic logic of the burial domain. A concern with principled evenhandedness and giving everybody their spot effectively means aligning with demands for confessional demarcations.

On the whole, Norwegian respondents tried to be evenhanded toward minorities in light of the hegemony of the Church of Norway ('compensatory evenhandedness'). They thereby also confirmed the relevance of an 'establishment script' insofar as agents take the hegemonic position of the Norwegian church as self-evident and given. This occurred as an explicit consideration, but also more tacitly as the self-evident point of departure. "Municipal disestablishment within a state-public religious constellation" was not salient as an argument in the embedded case studies.

As in the other countries, French respondents talked in terms of general normative principles: 'religious freedom of practice,' 'respect,' and 'neutrality.' At the issue level, *laïcité* mattered as *one* consideration. Tension surrounding the topic of confessional sections and private cemeteries comes from this required laic commitment to the neutrality of third parties. This was particularly true for the lower-level administrators. Thus, as Bowen suggested (2012, 361), arguments about secularity and separation remain important rhetorical positions in the public debate, though respondents *also* situated their arguments in light of the *logique du terrain*, 'integration,' or 'being pragmatic.' And they weighed different elements of the French state-church legacies against one another.

I concluded that a heterogeneous conception of state-organized religion model allows us to better divine the range of (normative) considerations at stake in the deliberation process of the decision-maker. In that sense, they are an improvement over the standard type of national models, although this was discursively more of an improvement for the French and Dutch model than for the Norwegian one.

These scripts, furthermore, may help us understand discursive particularities. And finally, we have an answer as to why the conservator in *Thiais* blushed when I pointed to the map hanging above her desk (see Section 2.4.2)! "As long as it hangs here and I do not show this in public, I think I am fine," she said.

That reaction allowed her to quickly defend her action as lying within the realm of the private: The map was hanging above her desk and not in the public part of the conservatory building. Formal burial ideology has it that one cannot publicly demarcate a public cemetery into confessional bits, as this would enable the public agent to

take religious affiliation into consideration in the allocation of a grave. Such action would render public what is in essence a private matter. Her reflex thus secured a hint of private judgment in her allocation policy and captured in a nutshell her attempt to navigate the reality of the terrain while respecting republican/laic ideology.

The lighthearted reaction of the graveyard director in The Hague revealed a concern with *ieder zijn eigen plekje*. "Oh," he said, "We just put a hedge between the Shia and the Sunni Muslims." Arguably, it can be seen as an element of the Dutch state-church legacy – or that of the burial regime (he situates it as lying within a reading of the Wlb). Second, his response to respecting the Islamic wish to have only one body in each grave is marked by concerns with commercial exploitation. "But, in that case, they have to pay for two bodies," he said. This is the result of a real structuring influence in this domain.

The publicly funded Islamic washing-house in Amsterdam is called a 'multifunctional room' in order to bypass the separation element in the Dutch state-church regime.

To explain why the Norwegian agents respond with the solution of 'individual consecration,' I suggest that they want to allow minorities their provisions, even though they are not fond of public divisions. Thus, they avoid creating 'hard sections' and private Muslim cemeteries for reasons of 'establishment' and 'social democracy.'

In other words, the framing issues (institutional regimes, among which the state-organized religious legacies) can suggest *why* the French 'individualize' and are against private cemeteries ('strict neutrality' and 'republicanism'); they suggest *why* the Norwegian propose 'soft sections' and do not like private cemeteries ('establishment'/'social democracy'); they suggest *why* the Dutch act light-heartedly but talk about money and a 'multifunctional room' ('commercial concerns'/'state-church separation').

But does discursive salience now denote explanatory salience for their actual actions? Possibly, but we cannot be certain. I have provided a range of reasons (Section 7.4). Mapping discourse engages public justifications, yet justification does not always equal motivation. Furthermore, there is often a multiplicity of causes. Finally, underdeterminacy means actors can interpret a given commitment (say 'evenhandedness') in a variety of institutional ways. Nevertheless, it is unclear what precise institutional solutions follow from it (see also Jensen: 2019, 12). Moreover, underterminacy can also lead to multiple interpretations by the scholar; hence the risk of scholarly overinterpretation – or of giving discourse too much weight to one's explanation.

8.4.1.2 "How Is Secularism Used and Argued for"?

Our last research question takes up the challenge of multiple lines of interpretation. In answer to this question, I found that in France *laïcité* was an actual term from

the lifeworld. Following my own suggested research strategy of perceived versus actual deployment (Section 2.3.4), *laïcité* was both an action-guiding idea ("I do this *because of laïcité*") as well as a framing issue. Yet, *laïcité* was only *one* idea. As in the other countries, respondents talked in terms of general principles to justify their actions. At the level of framework issues, *laïcité* mattered as *one* consideration, most often as a constraining element. For the Dutch and Norwegian agents, however, secularism was not a guiding idea or even a framework issue.

Schmidt's distinction between ideas and meaning context was helpful in making this point. There was overlap in some of the ideas that agents claim across embedded cases to have guided their decision (e.g., equity, respect, religious freedom).[8] Yet, there are crucial differences in the framework in which agents embedded these ideas and thus the meaning attributed to them.

Norwegians perceive the issue of confessional sections to be about 'integration,' 'state-church relations,' 'being pragmatic,' 'consecration,' and 'social democracy.' The Dutch see this as a matter of 'urban planning,' 'financial issues,' 'the burial law,' and to some extent 'integration.' Only the French see this as concerning 'secularism' as well as 'pragmatism,' *logique du terrain*, 'funeral laws,' 'professional codes,' and some reference to 'integration.'

Secularism or *laïcité* thus appeared as an *element of difference* in the comparative analysis and not a commonality. An etic framing in terms of 'secularism,' or 'secular formations,' would fail *exactly* to convey the cultural specificity between national contexts. Furthermore, this etic framing ultimately overdetermines this regulation as a matter governing 'religion.' Yet, most of the time burial demands are seen as a combination of issues (see Scheme 7.1, Level 3).

Lastly, when explicitly asked (quotations in Section 7.5.2), Dutch and Norwegian respondents expressed that secularism (or being secular) was not their *leitmotiv*. Or that it had a meaning in tension with their understanding of the burial practices or the choices at hand (Section 7.5.2).

In sum, not just for this study, I would nevertheless argue for ethnographic comparative purposes in general, 'secularism' being an inappropriate structuring concept.

My argument could have ended there. But one unexpected finding surfaced in the discursive analysis. Might there not be a tacit level of 'secular' sensibilities that informs an agent's actions? Causal factors may simply not always be visible in the discourse, for example, 'the logic of the terrain.'[9]

8 See Discursive Chart, Scheme 7.1, Level 2, or in the Master Table 8.1, Level 3b.

9 French burial agents mention this explicitly. It is absent from the Dutch and Norwegian discourses.

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That of course depends once again on what the scholar means by 'secular.' But the question is interesting insofar as it extends our argument as far as possible toward Asad. Second, people's behaviour or attitudes toward religion often depend on implicit and accepted assumptions. Taylor's discussion of the immanent frame and "sensed context" and Casanova's "phenomenological secularism" both make this point in various ways.[10]

But *especially* when studying implicit and lived attitudes do scholars have to tread lightly with their interpretative lens. And thus, standing on the shoulders of these influential scholars, my book provides the argument that studies on secularity need to become (even) more empirically and inductively informed. From the historical and genealogical canvasses of Taylor's *Secular Age* and Asad's *Secular Formations* 'in the West,' through the more geographically nuanced sociological variations of secularities in Casanova's work, there is still a way to go to reach such actual 'lived experience.'

In Sections 7.6.1 and 7.6.2, I looked at two examples of sensibilities in situations where certain burial solutions are chosen automatically and others are seen as inconceivable. The French find it *inconceivable* to consider private cemeteries. In Norway, too, the suggestion to provide for a private graveyard next to the Lutheran offer was rejected outright. Norwegian respondents "jump" in their argumentation toward the humanists, similar to how the French "jump" in their argumentation regarding private cemeteries. There occurs an automatic transition from a humanist complaint about the church's administrative role, which is a principled and sym-

10 How do "ordinary people" experience being secular? Casanova asks (2009, 1052). And how does their 'phenomenological secularism' (the lived experience of being secular) relate to the secularist assumptions in two types of secular ideologies, namely, those of 'philosophico-historical' or 'political secularism'? Casanova wants to establish a relationship between theories of religion and how ordinary people experience some of these theoretical assumptions. He thus probes a link between explicit formulations (ideology) and more implicit sensibilities: the "sensed context" in Taylor's formulation. The immanent frame is "not usually, or even mainly a set of beliefs which we entertain about our predicament, but rather the sensed context in which we develop our beliefs" (Taylor: 2007, 549). To Casanova's credit, he tries to make sense (empirically) of some of the highly theoretical distinctions of Taylor. Thus, Taylor's 'stadial consciousness' or 'subtraction theory' are no longer abstract features of Western history but can refer to actual lived attitudes. This it is one step closer to an engagement with "ordinary citizens." Casanova relies on public surveys to illustrate the presence of a 'stadial consciousness' in Europe (and its absence in the United States). He suggests empirical evidence because Europeans underreport and Americans overreport their religiosity (pp. 1055–1056). Yet, the experience of these ordinary citizens is relevant in Casanova's analysis insofar as they are representative of national states. The public opinion polls measure the opinion of '*the* Spanish' versus '*the* Norwegians' or '*the* Americans.' Furthermore, it can be questioned to which extent public surveys can even capture the complexity of 'being secular.' Moreover, Casanova's categories are derived from theoretical distinctions by liberal scholars like Taylor, rather than being inductively derived.

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bolic argument of administrative inequality, to a solution that offers 'individual consecration.'

So, yes, this does intimate the role of sensibilities. Yet, are these really secular sensibilities? Thus far in the analysis, I have interpreted the objection against private cemeteries in France as a sign of Republican thought and the Gallican script. But in Norway there is no sign of republicanism or Gallican control. So, why are they too against privatization? And why do they also discursively individualize the solution chosen?

At a deeper level, I suggest that what binds the French and Norwegian agents might in fact be a similar sensitivity and objection toward too much visible 'groupness.' Relying on a range of quotations, I showed how respondents talk across contexts about how whole and/or separate the solution should be and how people should feel at home and belong. There are even indications of an underlying metaphor of 'sharing the bed.' This language suggests that the challenge of dealing with groups might occur prior to dealing with religion. This is not so much an argument *against* the explicit relevance of 'republicanism'/'*laïcité*' and 'establishment'/'social democracy' for explaining discursive responses (i.e., why they individualize the solution and are tense about private cemeteries). Rather, it interprets these national explanations as expressions of a metacultural, action-guiding metaphor (Rein/Schön:1994, 33–34).

Such an interpretation might suggest that the binary of secular versus religion is irrelevant or only secondary to a ground binary of wholeness vs. fragmentation. And here the differences between contexts prevail.

Again, this does not mean that the scholar *could not* interpret some of the material as different secular sensibilities; this connotes 'different (lived and implicit) attitudes to religion.' One could say that the Norwegian and Dutch respondents do not recognize it as being about secularity *because* their picture of religion is much more benign: To them, it is simply a nonissue.

But in that case, why not state the research objective in those terms – 'different implicit attitudes to religion' – rather than go to the metalevel and cloud things by abstracting in terms of the secular? Second, remember that what gets done to Muslims and humanists mattered only in part when charting the respondent's implicit attitudes toward religion. It proved equally important to note when it was *not* about religion, but about immigrants, consumers, political actors, or simply groups. Finally, if conceived as being about religion, for respondents this was *not automatically* coupled to an understanding of the secular or secularism (see discussion of quotations in Section 7.5.2).

These nuances are all but lost on the Asadians. The analytic frameworks of Asad, Hurd, and Dressler/Mandair do not allow for specifying the noncase. They also foreclose the possibility that, for the laymen, something can be about religion and

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whether the state "facilitates religious communities?"[11] But for the laymen it has nothing to do with 'secularism' or 'being secular' (see quotations in Section 7.5.2 and discussion in Section 7.6.3). In the heuristic of Asad, Hurd, and Dressler/Mandair, however, each instance of religion-making *is* a case of secularism (Section 2.3.4).

In other words, the meaning and conceptual hierarchy of the terms in the everyday world are in fundamental conflict with that of the scholar. The result is that when we look through their analytic lenses, we necessarily misunderstand our respondents. We simply find reconfirmed the implicit epistemological picture of the Asadian scholar (Section 7.6.3).

8.4.1.3 Back to Asad and the International Discussion on the Secular

This speaks to an international research agenda on multiple secularisms. In a terminological sense, it suggests that secularism is deeply contextual (in this case: French) as well as an unnecessarily mystifying terminology. And much in line with arguments by postcolonial scholars, for example, B. Sayyid, it raises questions about the consequences of superimposing a secular religious binary on the analysis. He raises this for the study of Islam: "Are we not re-reading that history according to Western categories and its implied epistemology and politics?" (2009, 194).

To my mind, we do not need to travel outside the West to see this occurring. Furthermore, my concern is a methodological one rather than one with Western imperialism. Everyday burial professionals in Norway and The Netherlands fail to use the words 'secularism' and 'secular' to make sense of their actions. Substantively speaking, concerns with secularism turned out not to be an explicit theme or transnational leitmotif. And even when we explored them as a tacit motivation, the binary of wholeness versus fragmentation/separation seemed more relevant.

Can we generalize that latter finding? Well, on this point I am hesitant.[12] My intention was not to trade one leading binary for another as the basis for an international research agenda. Rather, it was to show the need for contextual sensitivity and generic scholarly framing for such international agendas. That said, my finding might point to the more artificial and likely elitist nature of a term like secularism. Although the underlying current in the multiple secularism debate is to dismiss the master narrative of secularization and secularism as 'Eurocentric,' 'one dimensional,' or 'overly deductive,' this debate is itself still pretty theoretical and deductive. If the main theorists suggest a phenomenological turn toward the lived experience of

11 I rely on the words of the juridical burial expert in The Netherlands (Section 6.5.2).

12 The empirical context from which I would generalize is that of a burial domain and everyday level of application. Yet, when looking at the issue of ritual slaughtering in an analysis of political discourse (rather than municipal praxis), other metaframes might be relevant.

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secularism, then they must be open to the possibility that their (liberal) categories conflict with understanding that world on its own terms.

Why is it important to stay close to the terms used in the everyday world? Well, for one, the contributors to this debate agree about being sceptical toward grand narratives. Referring once more to Asad's own words (Section 2.3.4), getting rid of this universal metanarrative serves the purpose of being in a better position to describe things in their own terms, partly attempted in the move from 'secularism' in the singular to 'secularisms.'

Yet, by introducing the term 'secularism' for explanatory purposes (or descriptive ones), one still takes for granted that a certain historical change is normative. I would go as far to say even when it is your explicit objective (as is the case with Asad or Casanova) to cancel out, or question, those standard normative connotations. Then it does not help to keep using the term, or alternatively add 'post-' signifiers. Scholars need a language that is better suited to describe ways of life. Casanova (2013, 46) formulates it well:

> (…) when it comes to "religion" and its antonym, "the secular," there is no global rule. We must humbly recognize that many of our received categories fail us when we try to understand developments in the rest of the world, in that rather than facilitating understanding these categories actually lead to a fundamental misunderstanding. (…) We first need a "de-secularization" of our consciousness and of our secularist and modernist categories before we can develop better concepts to understand the novelty and the modernity of these developments

I do not think we need to travel outside the West to see this.

8.5 Ramifications for the Theoretical Scholarship on Governing Minorities

In the following and final round of discussion, I want to review some of the previous findings, albeit with the aim of drawing out more explicit theoretical and meta-analytic implications. The theme of reification was central to the two scholarly literatures on which this book rests.

For Asadians, showing how ideas or cultural practices "are discursively reified as 'religious' ones" (Dressler/Mandair: 2011, 21) has a deconstructive purpose. The effort of defining religion converges for Asad (1993, 28) with a liberal political agenda, or is part of a colonial cartography for classifying and surveying.[13] Political scientists in the immigration and governance literature question reified one-dimensional

13 King (2011, 38) speaks of religion as an "imaginative cartography of Western modernity."

national models in order to develop better analytic tools for studying immigration or integration.

In both scholarly agendas, deconstruction can be a useful method for developing a better comparative understanding. Yet, paradoxically, I conclude, it is precisely Asadians who run the risk of reification. Furthermore, both scholarly agendas should reckon with the limitations that come from a mere discourse analytic approach. I illustrate this with three examples.

8.5.1 Deepening the Thematic of Scholarly Reification

I. Reification Through the One-Dimensional National Model. By now it is well established that, contrary to the standard images of what these states do to Muslims and humanists – France the laic society, The Netherlands the pillarizing society, and Norway a society ruled by an established Christian state church (until 2012) – these countries end up being quite similar in their responses at the level of municipal praxis. But maybe more interesting at this point, this study also suggests *why* these standard images nevertheless retain some validity: They are still partially reflected in the legal burial rules – which is exactly where the countries indeed vary enormously. So, if scholars working on religion and state focus solely on the formal and official levels of policymaking, their analysis will turn up these large national differences.

But I found an even deeper reason for why these national images are reproduced: They surface in the public reasoning of the local agents themselves. Bertossi (2012) suggested that national models get reproduced because scholars focus only on the formal levels of law and policymaking. Yet, in my analysis, the lower-level administrators in France were in fact *more* inclined to explain their actions with reference to *laïcité*. The higher-ranked administrators or political actors (such as the mayor of Montreuil), in turn, had greater levels of discretion at their disposition, allowing for more "honest" accounts. So, if taken at face value, these models reify what is a more nuanced empirical reality. Correcting this too ideological focus then becomes not just a matter of shifting levels of governance; it demands looking at actual material praxis.

The French context has enjoyed ample attention in this study. In this country, the conflict between theory and praxis is extremely manifest (and, as an aside, also quite fun!). Yet, Bader's claim (2007b, 833) about a "huge" gap between ideology and actual practice did hold true somewhat for the Norwegian commitment to evenhandedness.

Despite expressed concerns about treating all minorities equally in light of the existing hegemony of the Church of Norway, humanist burial claims resonate differently – but not because Norwegian professionals intend to discriminate. On the contrary, humanists are treated very equally and are offered the same solution of

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individual consecration or use of a Christian chapel for their burial ceremonies. Yet, that solution hardly fulfills their needs. Their disadvantage lies in the tacit presumption of the Norwegian burial agents that humanists are (somewhat annoyingly) *political actors* and thus not 'religious.' What matters for the burial professionals is being pragmatic and caring about consecration. The principled humanist complaint thereby misfires.[14] Furthermore, their burial request is of a symbolic and ultimately negative quality: It is defined by what humanists do *not* want. They resist the symbolic order and dominance of one church and want to leave the symbolic space open (e.g., the neutral ceremonial room). As also observed for French Muslims, symbolic claims are much more politically sensitive and thereby harder to accommodate than requests for concrete material accommodations.

In the case of Amsterdam, there is a significant discrepancy between ideological concerns with state-church neutrality and the mayor's actions in the question of the public financing of the Islamic washing facility.

II. Reification by Mistaking Discursive Relevance for Explanatory Relevance. Concerns with reification also resulted in an investigation of proposals for more nuanced modelling. State-organized religion legacies are historical products, containing multiple strands of reasoning that can be evoked at different times, regarding different issues, and even regarding different minorities. Public framing also played a role in these more heterogeneous conceptions.

The case of the mayor of Montreuil is such an example: In his discourse, he is intent on seeing the question of cemeteries as a pragmatic matter. Do not evoke *laïcité*, he says, as that will only get the attention of the extreme right. Furthermore, he reinterprets the 1905 law (or more precisely the associational script) as capable of meeting modern challenges.

We could explain his actions by noting, first of all, that he attacks the matter as a practical issue and, second, by relating to the French regime as internally plural. Yet, as we have gone to great lengths arguing, this risks overinterpreting the outcome as a proof of the model. *Explaining* the existence of sections in Montreuil by means of these discursive factors would mean missing out on other relevant ones: the existing Jewish sections, the mayor's flirting with the Muslim community, the *logique du terrain* and the pragmatism that comes with this institutional domain.

Some of these scripts in the more nuanced model thus have discursive relevance, but I remain sober about their full explanatory power. Theoretically, this means that I confirm claims by a scholar like Maussen (2009), that looking at changes in the

14 The difficulty for humanists is that they operate in an institutional context in which they are treated on par with religious communities. This is relevant for funding and formal representation. Yet, at the same time they do *not* want to be like the other religious groups.

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public framing of an issue can help us to understand differences in policy responses. Yet, I qualify that argument by saying that that the framing issues (institutional regimes, among which the state-organized religious legacies) better explain the *discursive* policy responses[15] than they do the *material* policy responses. They matter more for their understanding of how agents *talk* than what they *do*. For policy studies looking at shifts in public discourse, this book is thus a reminder that actual (material) policy outcomes might differ.

III. Reification by Fixating One's Analysis on One Concept Only. Lastly, our discursive investigation into the usage of secularism revealed a final example of possible scholarly reification. The contribution is here twofold.

On the one hand, this entailed an argument about a specific concept concerning 'secularism' or some of its cognates 'postsecularism.' Terminologically, I judged secularism to be too normatively charged to serve as a generic concept for comparison. And to borrow Bader's wording, evoking secularism means "going meta."[16] Methodologically, a scholarly framing in terms of comparative secularism or secularities would suggest some communality between national contexts, whereas 'secularism' had discursive relevance as an element of difference.

This first finding touches on a debate over the suitability of secularism as a scholarly term of analysis. In line with proposals in sociology to "drop the term secularization from all theoretical discourse" (Stark/Iannaconne: 1994, 231) and questions about religion as a universal category within religious studies, there is also a debate in a range of disciplines about whether to abandon the scholarly terminology of secularism altogether.[17] Bader makes this argument most forcefully for the purpose of political theory (see Bader: 2009b and Bhargava: 2009b) and the social sciences.

I lean toward Bader's argument that the terminology of 'secularism' makes scholars focus on the wrong *Leitdifferenz*. My contribution has been to engage this meta-analytic discussion from within the analysis of concrete everyday worlds and to extend it to descriptive and genealogical ways of working with secularism. Yet,

15 How they understand the solutions provided for and the possible social tension (or lack thereof) involved.

16 Rather than cloud our scholarly (or public) discourse with abstract metaterms, scholars should economize their language. If you use 'secularism' to denote a state attitude for preventing religious oppression, why not call it something like 'state prevention of religious discrimination'? (2009b, 567). Substantively, Bader connects this to a claim about the priority of democracy. Rather than ask how 'secular' states are, ask whether they are compatible with and conducive to minimal morality or minimal liberal democratic morality (cf. Bader: 2007a, 93).

17 In postcolonial studies, scholars remark on the "need to go beyond the conceptual and practical vocabulary provided by the language of secularism and religion" (Cady/Hurd: 2010, 23).

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I also depart from Bader, by taking more seriously than he does (or needs to do) that the term can have real meaning for agents in the field. I think this insight is valid in the work of Asad and Casanova. In sum, I take an interdisciplinary and pragmatic position on the question of abandonment.[18]

However, and this constitutes the second contribution and more general methodological point, if a genealogical approach to secularism (or any other category for that matter) is to be used as the basis for comparative field analysis, it requires answering the question: Who is doing the deployment? And who is *not* arguing about secularism? What are they arguing about instead? Emic understandings of a given praxis or solution might stand in tension with scholarly terminology. Here, I have attempted to carry the debate forward by employing the strategy of 'actual' or 'perceived deployment.'

8.5.2 Engaging the Discursive Turn and Proposing an Additional Material Turn

At the utmost general level, then, this book has engaged the project questions: How do states respond to the new diversity? And what scholarly frameworks or concepts are best suitable for international comparisons of these responses?

By way of the shortest answers: they respond legally and discursively very differently yet act similarly. Best suitable for the international comparison of these responses are generic analytic frameworks, the concepts of which allow for the meaning-giving process of the people whose social world is under study; and frameworks that complement discourse analysis with an analysis of the material dimensions of governance.

The dynamics of accommodation observed resulted from (a) negotiations between minorities themselves and public/private burial actors; (b) a set of institutional regimes among which burial and state-church legacies as well as 'integration'; (c) the level of praxis.[19] Professional public discourse played a role insofar as the decision-makers make sense of the burial demand in light of these factors through their discourse (d). Because public discourse is amenable to change, other public framings might lead to other regulations. And agents can reinterpret a given institutional script through their discursive foreground abilities, resulting in different actions.

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18 I suggest evaluating secularism terminology internal to the discipline, i.e., investigating "how alternative meanings are connected with the specific goals and context of research" (Collier/Adock: 1999, 540). Pragmatically, I concur that "how scholars understand and operationalize a concept can and should depend in part on what they are going to do with it."

19 These encompass professional codes, cultural narratives/sensibilities, and a logic of the terrain.

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The book thus engaged a discursive turn in the scholarship for answering the question of institutional accommodation. It has concluded that this shift toward discourse in the social sciences and comparative institutional literature represents an improvement. It provides the insight that institutions are not only internally plural, but also multi-interpretable. Institutional outcomes that contradict the expectations of the institutional model can, in a revised version, nevertheless be seen to be in line with the model.

When applied to the literature on state-church legacies, this allows for richer and more descriptively accurate[20] models. These are *one* part in the puzzle of why states treat Muslims or humanists this way over another.

The focus on public framing furthermore brought to light that governments regulate 'religions' not just via their religious and immigration policies (cf. Bader: 2003a). Rather, other domains, like hygiene or in the Dutch case urban planning and commercial regulations provide numerous possibilities and constraints. Depending on how the issue is seen and framed, other regulations – or different elements of the state-church regime – can come into play.

Integrating insights from the Asadian scholars showed how the definition of what is and what is not 'Islam' entailed another aspect of discursive governance. And this had concrete consequences, for example, in how Islamic sections were given form (the Hague case study) or to whom burial agencies chose to cater their services (*Al-Khidmat,* an Islamic undertaker in Oslo, Norway).

But this discursive turn and scholarly focus on framing also revealed some limitations. As mentioned, scholars should not take public discourse *too* seriously, since focusing analytically only on discourse may overemphasize national differences. It poses the challenge of overinterpretation (reification) and the risk that every institutional outcome is interpreted as proof of the institutional model.

First, focusing on material analysis and investigating a range of factors can redress this problem. Second, it helps to be conscious throughout (or at least as much as possible) of the role of models and normative categories. Do they fulfill a descriptive, discursive (normative), or explanatory function? How do the respondents justify their normative commitments? Where do they see the issue? This requires moving back and forth between scholarly models and categories on the one hand and an empirical reality on the other.

Needless to say, Asadian scholars are vulnerable to this critique as well. In this type of scholarship, the analytic line between description, prescription, and explanation is not very clear to begin with.[21] But even if we take them to task on the level of

20 They describe more accurately the variety of possibly contradicting strands of reasoning.

21 Asad shifts register between merely showing the discursive structure of a narrative of modernity, providing for a normative critique of secularism, or describing ways of life in the West, Section 2.3.4.

analysis at which they are best – discursive mapping – the risk of overinterpretation in their analysis is large. Exactly because the deployment of categories like religion and secularism is always normatively charged, serving one purpose or another, they are hard pressed to apply that insight to their own scholarly interventions.

Yet, there is no critical reflection of the presuppositions of their own scholarly heuristics. By fixating their analysis on the deployment of *one* concept (e.g., religion, secularism) internal to a set of practices (law, politics), they prevent their analysis from being open to the meaning-giving process of the everyday world and its emic terminology (that might *not* recognize it as religion or secularism to begin with). This works in the cases of 'actual deployment' but demands explicit consideration in situations of conflict between emic and etic terminology.

Both arguments (being conscious of the role of models/concepts and complementing discourse analysis with material dimensions) ultimately have ramifications for an interdisciplinary discussion about Islam – and humanists – in Europe. They contain methodological suggestions for future comparative research, as they relate meta-analytical concerns regarding appropriate scholarly concepts to concrete everyday worlds and vernacular understandings.

This book's two-pronged strategy productively showed that the discursive reality of the societal accommodation of minorities is one important aspect of what "happens to Muslims in Europe" – or humanists – in Norway. Yet, the outcomes of this study are a sober reminder that material reality might differ. Furthermore, scholars intending to study the 'lived experience' of minorities and public agents in the West are advised to work with concepts that have a boundary (even if only a vague one); and to work within an analytic framework that is generic enough to allow for the meaning-giving process of the people living that life.

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List of abbreviations

AFIF	Association Française d'Information Funéraire
B&W	Burgemeesters en Wethouders
BIBIN	Bijzonder Islamitische Begraafplaatsen in Nederland
CIBA	Commissie Islamitisch Begraven Amsterdam
CGCT	Code Général des Collectivités Territoriales
CNCM	Conseil National du Culte Musulman
CRCM	Conseil Régional du Culte Musulman
CORIF	Conseil de Réflexion sur l'Avenir de l'Islam en France
DEVE	Direction des Espaces Verts et de l'Environnement
DNO	De Nieuwe Ooster
FNMF	Fédération nationale des musulmans de France
GMP	Grande Mosque du Paris
HEF	Human-Etisk Forbund
IBW	Voorzitter Stichting Islamitisch Begrafeniswezen
IRM	Islamsk Råd Norge
KA	Kirkelig Arbeidsgiver- Og Interesseorganisasjon
LOB	Landelijke Organisatie van Begraafplaatsen
NOU	Norges offentlige utredninger
OUIF	Union des Organisations Islamique de France
SMRE	Swiss Metadatabase of Religious Affiliation in Europe
SSB	Statistisk sentralbyrå
UMP	Union pour un Movement Populaire
Wlb	Wet op Lijkbezorging

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Appendix I: Research Questions at Different Levels

Level A: *Metalevel Project Questions*

How do states respond to the new religious and cultural diversity? What scholarly frameworks or concepts are best suited for international comparisons of these responses?

Level B: *General Research Questions*

1) What are the institutional and discursive policy responses to Muslim and humanist burial needs and related processes when compared between countries and over time? What (national) similarities and differences do we observe?
2) What role does a state-organized religion legacy or national repertoire play in determining burial outcomes?
3) How is secularism used and argued for?

Level C: *Patterns of Policy Outcomes*

At this level we compare outcomes at three levels of governance across national contexts.

1) Institutional: What types of legal and material solutions do we see across embedded cases across countries? What pattern of similarities and differences arises?
2) Discursive: What pattern of similarities and differences arises when comparing discursive national and municipal responses?
3) What was the role of Muslims/humanists themselves in the process? This shows the more general process of institutionalization of 'religion,' see Scheme 6.2: actor constellation chart.
4) What is the relevance of a state-church legacy and 'secularism'?

Level D: *Questions Operationalized within Each National Context and Embedded Case Study*

This level provides basic information for formulating the legal, national policy level and municipal patterns of level C and as discussed in Chapter 6 and 7.

1) What is the formal legal framework regarding religious diversity in the cemetery? What are the institutional characteristics of this domain (who owns, pays for, who administratively governs cemeteries)? What is the implicit social imaginary

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of the cemetery in the legislation? What is the historical context of state church relations for these burial regulations? (Chapter 3)

2) What policy guidelines and changes occurred in this domain over time in response to the demands of minorities? What are the institutional and discursive political responses and related processes in responding to Muslim and humanist burial needs? (Chapter 4)
3) For each embedded case study: What are the relevant processes that produce burial outcomes and related actors/decision-makers? Second, what material solutions do the institutional decision-makers provide for, or avoid? Third, how do they (or the minorities in question) give meaning to these solutions chosen and how do they justify the solution? Fourth, how do they talk about and frame the issue at hand? (Chapter 5)

Level E: *Questions Posed to the Individual Respondents*. See Appendix II.

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Appendix II: General Interview Guide

Introduction

- Welcome and thank you for participating in this interview.
- What is your function in the organization?

I. Political situation and its historical context: burial challenges and solutions

- Can you tell me a little bit about controversial issues in the cemetery in your daily work?
- What is the position of your organization herein? What do *you* think matters?
- Could you give me some historical background? How has this issue evolved?
- In the Norwegian context, what do you think are the main reasons for the 1996 legal change?
- Should Norway maintain this regulation in the future? Why (not)?

Muslim or humanist representatives:
- Could you tell me about the needs of your community in matters burial?
- Have these needs always been relevant?

II. Process

- Can you explain to me how this everyday burial process works? If a Muslim family expresses the wish for special accommodations, what do you do?
- Could you explain to me how this confessional section/Islamic cemetery/humanist provision came into being?
- What were/are the parties involved?
- Who took the initiative?

Muslim or humanist representatives:
- What is the role of your own Islamic/humanist organization in obtaining special burial provisions?
- Do you feel your groups' burial needs are met with understanding?

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- Do you cooperate with other (confessional) groups?
- What is needed to improve the situation?

III. What are the main (normative) considerations at stake?

- What, in your opinion, are some of the main reasons for providing a special part of the cemetery for Muslims or other religious communities (or not)?
- What solutions do you think are most appropriate? What should be avoided?

For all respondents but especially policy-makers, legal experts:
- What (normative) considerations do you think the lawmaker had in mind when stipulating these regulations?
- What do *you* think should be the main considerations?
- Do you think different groups are treated equally in the cemetery?

Muslim or humanist representatives:
- Why, and how, should the state or respective cemetery owner accommodate your wishes?

IV. Conceptual: How do actors talk about the issue?

If no reference to secularism is made, ask toward the end of the conversation:
- How does secularism affect your daily work in the cemetery?

Muslim or humanist representatives:
- How does secularism have a bearing on your claims toward the state/the cemetery-owners?

Ending

- Is there anything you would like to further add or ask?
- Thank you so much for your time and information!

Appendix III: Overview of Interviews Conducted

Interviews held in France

Professional occupation, organization, and place of interview	Date(s) of interview(s)
1. Advisor of the Major and City Council Bobigny, La municipalité *de Bobigny,* Bobigny	2 February 2009
2. Functionary in *Les Amis du Musée Funéraire National* d'AMFN, Paris	3 February 2009
3. Sociologist, l'Université Paris V – René-Descartes, Paris	4 February 2009
4. Muslim burial undertaker *Pompes funèbres Musulmane el Badre,* Paris	4 February 2009
5. Former advisor to the Minister of Interior and Professor Imam Teaching at the Catholic Seminar, Paris	5 February 2009
6. Former President of the *CRCM Rhône d'Alpe*s, Lyon	10 February 2009
7. Member of the commission carrés musulmanes, Lyon	11 February 2009
8. Muslim burial undertaker, Lyon	12 February 2009
9. Conservator, *Le cimetière Parisien de Thiais*, Paris	2 October 2012
10. Conservator, *Le cimetière Parisien de Pantin*, Paris	3 October 2012
11. Administrative Director of the Cemetery Services, *Le service des cimetières de Paris,* Paris	9 October 2012
12. Administrative leader of the Civil Services and Cemetery Services (*Service État civil/Cimetière*) Assistant to the Office of Conservation (*Bureaux des conservations*) Group interview with both in Montreuil	4 October 2012
13. Former Mayor, La municipalité *de Montreuil*, Montreuil	10 October 2012

Interviews held in Norway

Professional occupation, organization, and place of interview	Date(s) of interview(s)
1. Senior advisor in Matters Burial, *Human –Etisk Forbund* (HEF), Oslo	22 October 2008 4 November 2018 (phone)
2. General Secretary for the Council of Free Churches, *Frikirkelig Råd,* Oslo	24 November 2008
3. Department Head Church Employer and Interest Organization, *Kirkelig arbeidsgiver og interesseorganisasjon* (KA), Oslo	23 October 2008
4. Muslim burial undertaker, *Al- khidmat Muslimsk Begravelsesbyrå,* Oslo	2 October 2008 29 April 2009
5. Secretary General, Islamic Council of Norway *Islamsk Råd Norge* (IRN), Oslo	27 July 2009
6. Church Minister (*sogneprest*) in Elverum and Dean of Church (*prost*) in Sør Østerdal, Elverum	17 November 2008 23 July 2009
7. Former Director General of the Department of Ecclesiastical Affairs, Oslo	1 November 2012
8. Senior Adviser Norwegian Ministry of Government Administration, Reform, and Church Affairs, Oslo	7 December 2012
9. Dean of Church (*prost*) in Gaudal, Trondheim.	17 October 2013
10. Burial representative and ceremonial leader in HEF, Trondheim	17 October 2013
11. Church Warden Støren, Støren	18 October 2013
12. Advisor Cemetery Affairs of Church of Norway, *Gravplasrådgiver i Den norske kirke,* Oslo	14 October 2013

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Interviews held in The Netherlands

Professional occupation, organization, and place of interview	Date(s) of interview(s)
1. Consultant for the National Organization of Cemeteries, *Landelijke Organisatie van Begraafplaatsen* (LOB), Amsterdam	3 December 2008 20 August 2012
2. Director of the Department of Municipal Cemeteries in The Hague, *Afdeling Begraafplaatsen Gemeente Den Haag;* Director Catholic Cemetery (*Stichting Rooms Katholieke Begraafplaatsen te 's- Gravenhage*); Legal expert, unaffiliated (Jurist) Group interview with all three in The Hague	4 December 2008
3. Director of the Department of Municipal Cemeteries in The Hague, *Afdeling Begraafplaatsen Gemeente Den Haag*, The Hague	21 April 2009
4. Representative Humanistic Organization *Humanistisch Archief,* Amsterdam	4 December 2008
5. President of the Association for Islamic Burial, *Stichting Islamitisch Begrafeniswezen* (IBW), Eindhoven	9 December 2008
6. Director of the Cemetery and Crematorium Essenhof, *Begraafplaats en Crematorium Essenhof*	19 March 2009 (phone)
7. Board member of the Islamic Foundation Al Raza, *Stichting van Almeerse Moslims Al Raza*, Almere	18 March 2009 (phone) 17 June 2009
8. Historian burial history, unaffiliated, Arnhem	14 August 2012
9. Funeral expert, unaffiliated, Funerair deskundige	25 March 2009 (phone)
10. Juridical advisor in matters burial, *Juridisch Adviesbureau*, Velp	10 August 2012

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