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Contesting Diversity in Europe: Alternative Regimes and Moral Orders

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Abstract

Diversity, or rather the process of *diversification*, in a multicultural society such as Britain, involves interaction between hegemonic and minority (alternative) 'regimes', which specify and embody the principles underlying the arrangement of diverse populations, their configuration. Regimes entail moral orders, sets of beliefs and values that provide guidelines (or imperatives) for right and proper conduct within and between diverse populations, and in a globalising world these come under pressure, not least in a migratory context, which is a catalyst for changing perceptions of self, forcing (re)interpretation of beliefs and practices. The family is one 'site' where matters may come to a head, and differences between regimes and moral orders are explored and contested. The way in which regimes are 'interarticulated' is crucial. In Britain this involves a complex process of contestation and negotiation between proponents of different perspectives. British multiculturalism, one mode of dealing with diversity, is thus best interpreted as an emergent 'negotiated order', the result of interaction between a multiplicity of social actors that reflects the *rapport de force* (local, national, international) in contemporary society.

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1. Background[1]

'How can anyone govern a nation that has 246 different kinds of cheese?'
Charles de Gaulle

It is salutary to be reminded of the remark attributed to Charles de Gaulle, which symbolised his frustration, perhaps the frustration of all governments attempting to rule diverse, multicultural societies. The governance of such societies entails acknowledgement (recognition), positive or negative, of the diverse values attached to, or associated with, different cultures and 'communities', and judgments about what kind of difference, and the difficult question of how much, to recognise, formally and informally, in private and public. This is the background to much of the work of IMISCOE, the EU-funded Network of Excellence for 'International Migration, Integration and Social Cohesion' (see http://www.imiscoe.org/), at least that part of it with which I have been most closely associated.[2]

As part of IMISCOE's programme I was asked to convene a series of workshops on *debates about cultural diversity*. 'Cultural diversity' here refers to the co-habitation

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1 Earlier versions of this paper were presented to the IMISCOE B6 workshop on 'Understanding Diversity' at the Max Planck Institute for the Study of Religious and Ethnic Diversity (MPI-MMG), Göttingen, October 2009, and to seminars at London Metropolitan University and the University of Nottingham. The present version has benefited substantially from participants' criticisms and comments.

2 IMISCOE is divided into nine working groups or clusters, and 'Cluster B6', convened by Professor Steve Vertovec, has been concerned with 'Linguistic, cultural and religious diversity and related policies'. These terms of reference were addressed in workshops that explored how cultural diversity in Europe is manifested and accommodated (or not) within various institutional systems. Those I attended discussed the governance of Islam (Amsterdam, May 2005); 'Debating Cultural Difference: Immigrant and Minority Ethnic Families in Europe' (Sussex, April 2006); 'Reassessing Multiculturalism in Europe' (Oxford, June 2006); 'Legal Practice and Cultural Diversity' (London, July 2007); 'Gender, Generations and the Family' (Fiesole, June 2007); 'Legal and Normative Accommodation in Multicultural Europe' (Brussels, July 2008), and 'Understanding Diversity' (Göttingen, October 2009). These workshops, which inter alia provided a showcase for young scholars, proved valuable because they were *comparative* (between different national contexts, and national intellectual traditions), and *multidisciplinary*. The participation of anthropologists, political scientists, sociologists, and most recently lawyers has been especially challenging, with many misunderstandings and misinterpretations to negotiate; anthropologists often have difficulties with the abstract model-building characteristic of some social sciences, and in responding to normative (political-sociological), as opposed to empirical or theoretical, questions.

within the same political space of peoples thought (by themselves and/or by others) to adhere to different ethnic, cultural, religious, linguistic, legal, and moral orders, and the social practices associated with them. Such debates, which are fundamentally about the rights and wrongs of different ways of living sometimes thought to be incompatible, are currently occurring throughout Europe and include many varied voices from among both majority and minority ethnic populations. Often highly acrimonious, they are multi-sited (local, national, transnational, international), and cross socio-institutional domains (what is happening in debates about the family also reflects what is happening in debates about religion, law, education, and so forth), and may be observed in public policy statements, the speeches of politicians and religious leaders, the media, and everyday conversations. Our approach to understanding these debates was to focus on specific issues and situations, including the family and legal practice.[3] Here I reflect on some general theoretical and methodological issues emerging from discussion with European colleagues, and how these may contribute to the wider agenda. At the same time, the paper seeks to contribute to furthering understanding of British-style 'multiculturalism', a specific example of the governance of diversity, as a 'negotiated order'.

2. The Dilemmas of Cultural Diversity

Cultural Diversity as a Political Problem: *'Diversity Depravity'?*

In patrimonial societies, as Weber called them, rulers were concerned less with who you were than what you could offer in the way of loyalty, taxes, labour or other services. Thus ethnic difference was not generally thought to pose as great a difficulty as it did under modernity, when identities had to be homogeneous, within, if not between, nation-states, and the public co-existence of heterogeneous identities was not tolerated. Modern nation-states are, of course, not all the same in this regard and in their treatment of diversity. In Britain, France, and Italy, for example, we find different, sometimes seemingly very different, ways of handling diversity, and this obliges us to think comparatively about the relationship between different nation-state formations' approaches to diversity (e.g. Britain and France, Favell 1998). But there are convergences as well as divergences.

3 Some results have now been published (Grillo ed. 2008, Grillo et al eds. 2009); work on legal practice is continuing.

In the late 20th century, there was, for a time, a shift in the approach across Europe. Previously hostile to diversity, nation-states seemed more accommodating, making room for ethnic, religious, and linguistic diversity in ways which an earlier generation would have found unacceptable. The 21st century has seen a shift in the opposite direction. In Britain, for example, between c. 1967 and 2000, policies sought to control and regulate immigration while accepting that most immigrants were here to stay. This was accompanied by increasing recognition of the legitimacy of cultural difference and willingness to allow the expression of such difference, within certain limits, in the private sphere, and to some degree in the public sphere too (the so-called 'Jenkins' Formula', Jenkins 1967; Rex 1995). After the turn of the Millennium, however, reservations about this policy could be found across the political spectrum, amounting to what has been called 'a backlash against multiculturalism' (Grillo 2007, 2010; Modood 2007; Vertovec and Wessendorf eds. 2009; etc.). There is a perceived 'failure' on the part of immigrants to integrate, and they are accused of shutting themselves off in 'parallel lives', where they are more oriented towards their original homelands, with which they retain important transnational, transcontinental links. In contemporary parlance this is frequently associated with practices of familial relations, and (collectivist) principles (cultural, religious) which underpin them, deemed unacceptable for societies espousing liberal, democratic, individualistic, and secular values.

This perception of diversity links bedfellows who would otherwise reject each other's company, e.g. liberal secularists on the one hand; far-right nationalists on the other (as in the 2009 Swiss referendum on minarets). Of course their objections are not the same. For the former, a characteristic feature of that mode of governing diversity which is called 'multiculturalism' (or rather multiculturalism as it is imagined) has entailed categorising individuals by a singular (racial, ethnic, religious, cultural) identity, what Sen (2006) calls the 'solitarist illusion', and privileging the blocs so constituted. The far-right challenges multiculturalism (*sc*. 'multi*racial*ism'?) by denying the validity of any cultural difference but their own. In their view it undermines the old ethnic order.

Not everyone sees diversity as a problem. For example, the authors[4] of what is called the Parekh Report (2000), on *The Future of Multi-Ethnic Britain*, argued:

4 Chaired by the political sociologist, Lord Bhikhu Parekh (see also Parekh 2000). Members of the commission included Stuart Hall, a highly influential commentator on matters concerned with ethnicity in the UK (e.g. 1992), and Tariq Modood, a noted contributor to the debate about multiculturalism (e.g. Modood 2007).

> England, Scotland and Wales are at a turning point in their history. They could become narrow and inward-looking, with rifts between themselves and among their regions and communities, or they could develop as a community of citizens and communities. Britain as a whole could be such a community, and also each region, city, town and neighbourhood within it (p. xiii).

This, they said, required an 'understanding that all identities are in a process of transition', and called for 'rethinking the [British] national story and [British] national identity' (*ibid*.) Nonetheless, there is a widely held popular view of contemporary societies as characterised by too much alterity, with too great a cultural distance between incomers and *indigènes*, and too many people who profit from that distance. Concerning the USA, for example, Robert Putnam's recent work shows an apparent correlation between the level of distrust expressed by informants and the level of ethnic diversity. 'Diversity', he argues, 'seems to trigger […] anomie or social isolation […] people living in ethnically diverse settings appear to "hunker down"' (2007: 149). 'Many Americans', he says, 'today are uncomfortable with diversity' (2007: 158).[5] There is also a wider literature in which the overriding narrative is 'diversity is bad' (Caldwell 2009; Goodhart 2004; Sartori 2002), and in popular discourse, perhaps at its extreme, diversity may be equated with 'depravity'.[6]

Cultural Diversity as a Sociological Problem

If cultural and religious diversity raise questions of a political character, their study also poses problems of a sociological nature. Cultural diversity is one of a number of organising concepts currently in this general field, along with ethnicity, boundary, identity, etc., and there are disputes about its salience, the weight it should be accorded, and how it intersects with other kinds of diversity, such as those based on socio-economic difference, gender, or sexuality. Intersectionality is not the concern of this paper, but the question of salience needs to be addressed.

There are, certainly, many historical and contemporary differences in the various national experiences and readings of ethnic, cultural, linguistic, and religious

5 Whether 'discomfort' is the right term to describe such reactions to ethnic and racial difference in the USA is a moot point; perhaps 'uncomfortable' is a stronger word in American than in British English. Putnam's discussion of the causes of discomfiture is also unconvincing, lacking sensitivity to the history of racial and ethnic difference.

6 The phrase 'diversity depravity' comes from a contribution by one Brenda Walker to the US anti-immigration website Vdare.com (http://vdare.com/walker/090205_diversity.htm [accessed 5 February 2009]); she quotes Robert Putnam in support of her position.

diversity in North America (the USA, Canada, Mexico), and Europe (Vertovec and Wessendorf eds. 2009), but one influential, not to say hegemonic, approach has been to focus on the internal organisation of 'identity blocs', defined through ethnicity and 'race', and their relations with other blocs similarly defined. Although there has been a reaction against it with thinking about 'post-ethnicity', this has by and large remained the problematic through which the organisation of contemporary multiracial, multiethnic societies has been envisioned. In addition, in the USA and elsewhere the key issues have had less to do with *cultural differences* (*pace* the work on 'political correctness') than with historic social and political *inequalities*, especially between blocs which are 'racially' defined: the 'American Dilemma' (Myrdal, Sterner and Rose 1944; and see Schierup 1996). This approach also underlies much European work on 'integration' (e.g. in the UK, Johnson and Verlot 2008).

A publisher's reader of the manuscript of Grillo et al eds. 2009 took the editors to task:

> I was less than happy that a book entitled "Legal Practice and Cultural Diversity" looked only at the impact of cultural diversity on the cultural dimensions of legal practice. Debates over head scarves, turbans, etc. are much in the news these days. They exercise people on both sides of the divide. Issues of marriage and divorce are always controversial. Cultural defenses are raised in a tiny number of criminal cases. But surely that doesn't exhaust the ways in which cultural diversity interacts with legal practice. Nor, for cultural minorities, does it represent the most significant ways in which they interact with law and the state. I would like the editors to address […] the relationship between the particular cultural features of legal practice they have chosen as their focus and the other ways (arguably equally or more important) in which cultural diversity affects legal practice. I am referring to: education, employment, housing, criminal justice, and immigration […] Those are the central questions for immigrants and for the societies that are absorbing them. They are what produce social unrest, misery, crime, continuing segregation.

This perspective, of a reader based in the USA, is one which is widely shared on both sides of the Atlantic, and he is, of course, right to emphasise the socio-economic inequality with which ethnic diversity is all too frequently associated. As Adam Kuper, for instance, has commented:

> In practice, members of minority groups are more likely to be troubled by racial or religious or legal discrimination than by a more subtle denial of cultural recognition. Rather than claiming a right to be different, it might seem more sensible in such a situation to insist on the right to equal and similar treatment (1999: 237; see also Strategy Unit 2003).

Certainly the discrimination and exclusion experienced by immigrant and minority ethnic groups is frequently economic in character, and closely associated with jobs

and education. But employment is by no means its beginning or end. Exclusion is a wide-ranging phenomenon, and that which characterises the lives of migrants and their families (for example in the legal context) can by no means be reduced to matters of income or employment, notwithstanding their importance. Consequently, a concept of cultural exclusion is needed alongside that of social exclusion.

Cultural, especially religious, diversity (and the two should not simply be equated) undoubtedly raises serious contemporary questions that are now being addressed on both sides of the Atlantic, notably in Canada. Alba et al (2009: 2), for instance, contend that while until recently, in the United States the 'predominant [scholarly] emphasis was on the socio-economic insertion of immigrants and their children', now:

> Religion of necessity is gradually being restored to its rightful place of importance in inquiry into the immigrant and second-generation experience. While scholars of religion did little for a number of years to tackle descriptively or theoretically the complex nexus of religion and immigration […] the signs of change are increasingly evident.[7]

Religion and religious belief have a much greater role in the public square in the USA than in contemporary Europe, and historically have perhaps had a greater impact on the organisation of diversity than is sometimes appreciated. In Europe, by contrast, religion has seemingly become considerably less significant in national politics than it once was, notably in countries such as Ireland, Italy or Spain. Religious belief, affiliation, and practice, it could be argued, are in long-term retreat. To say that, however, is to ignore the (growing) religiosity of immigrants and minority ethnic populations of migrant origin, especially those from outside Europe. There are, naturally, ambivalent views of this religiosity, and frequently the salience of minority religion is seen as a major cause of (self)exclusion and marginalisation, and an affront to liberal, secular values: the affair of the Danish cartoons illustrates this.

Undoubtedly, questions about cultural and religious diversity are central to current concerns (Ballard et al 2009), and their contemporary salience needs to be recognised. To do so is, of course, in no way to deny the significance of the socio-economic agenda.

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7 For recent surveys of the significance of religion among immigrant and ethnic minorities in the United States, see also Foley and Hoge 2007; Foner and Alba 2008; Levitt 2007.

3. Diversity Regimes

Against this background, and seeking an analytical stance for studying the dilemmas of cultural diversity, it has been salutary to re-visit some long-standing pre-occupations.

In the 1970s, while researching relations between French and North African immigrants, I observed how the situation of immigrants was viewed as 'problematic', and *inter alia* investigated the role of French institutions in the 'representation of problems' (Grillo 1985). 'Representation' signalled the ideas and values through which the situation of immigrants was conceptualised, but also how discourses and narratives around immigration and immigrants were 'represented' within the institutional system in which policies were formulated and implemented. It was concerned with who speaks for and about immigrants. This related to another issue, the interaction between what might be termed, heuristically, 'external' and 'internal' representations. 'External' here refers in the first instance to representations in public discourse, including public policy discourse, addressing the real or imagined social and cultural practices of immigrant and minority ethnic communities, and how those appear to fit (or not) with the hegemonic (real or imagined) practices of the receiving society. 'Internal' refers to what happens 'inside' minority ethnic and immigrant families, and the communities claiming their allegiance, their 'internal cultural debates' (Parkin 1978). Although a valuable heuristic device, perhaps close to the viewpoint often held by social actors themselves, this formulation breaks down in the face of the complexities of the contemporary, globalised, world, characterised by individual and collective social and cultural mobility and change. It is overly simplistic, too, given the multiplicity of voices involved, and the multifaceted subject positions they represent (Grillo 2008).

Reflecting on recent debates, I have amended that approach in a number of ways. The starting point is that diversity should be understood as a process (see further below), which involves a dialectical relationship between 'regimes' and 'configurations'. What we observe on the ground are 'diversity configurations' (the actually existing arrangement of diverse entities in a society, the prevailing arrangement of diverse elements)[8], which are at least in part constructed through the operation of a hegemonic diversity regime. The regime specifies or attempts to specify the nature and shape of the configuration, including the relations between the diverse elements

8 This use of 'configuration' differs somewhat from Vertovec's (2009: 10-14), perhaps conflating what he means by 'configurations' and 'representations'.

and indeed which people, which practices are construed as diverse and different; it specifies and embodies the principles underlying the configuration.

This concept of regime is related to a Lévi-Straussian notion of 'structure' and a Foucauldian notion of 'discursive formation', and bears a family resemblance to Kuhn's modified concept of 'paradigm' (Kuhn 1970: 182 ff.) For Foucault, discourse designates a 'group of statements in so far as they belong to the same discursive formation' (1972: 117). Statements are 'groups of verbal performances […] linked at the statement level' (p.115). That level is identified by the way that a statement is linked to a 'referential' (p.91) which consists of 'laws of possibility, rules of existence for the objects that are named, designated or described within it, and for the relations that are affirmed or denied in it' (*ibid*). Some brief examples may help illustrate this idea.

In Mexico, for instance, there was a series of long-term shifts in which the inhabitants of southern regions, such as Chiapas or Oaxaca, went from being classified as *indios* under Spanish colonialism to being characterised as *campesinos* (peasants) in the Mexican Revolution. 'Migration', says Melissa Forbis, 'coupled with the government's assimilationist policies aided in the transformation of the migrants into *campesinos* stripped of their ethnic identities' (2006: 182). Now, says Shannon Speed (2006: 209) they are 'occupying the new "subject position" of globalized multicultural neoliberalism, that of indigenous peoples', which *inter alia*, places them in an international network of relations with other peoples similarly identified, one that includes a United Nations Permanent Forum, a Declaration of Rights and so forth.

Returning to Europe, specifically the UK, I referred above to the so-called 'Jenkins' Formula', in which considerable room was made for cultural difference in private and to some degree in the public sphere also. One might say that the hegemonic regime in the UK was integration à la Jenkins, until c. 2000/2001, when it was overtaken by the now prevalent 'community cohesion' agenda (Cantle 2008), and a different conception of integration. At the same time, and interrelating with this in complex ways, there were important shifts in the categorical terms through which the diverse population has been conceptualised, from 'race' to 'ethnicity' to 'culture' and most recently to 'faith', now seen as the defining characteristic (Grillo 2010). As elsewhere in continental Europe, this often means religion conceptualised through a racial or ethnic lens.

Italy offers an interesting variation on this theme. Alessandro Ferrari (2008) has proposed that the Italian regime of multiculturalism (multiculturalism Italian-style,

see also Grillo and Pratt eds. 2002) has three characteristic features. It is top-down rather than bottom-up; as evidenced by Articles 7 and 8 of the Constitution, it prioritises diversity based on religion and institutionalised religious identities rather than on more general cultural differences; and consequently its effect is to differentiate between social blocs, rather than integrate them within the social fabric. As well as identifying individuals with their religion, this approach downplays internal differences within religious groups and privileges religions that are highly institutionalised. The Italian state seeks clearly defined, stable, hierarchically ordered partners, and this in turn means religious groups have to fight for recognition, and in the process cover up or suppress their internal differences. The model is the Italian state's historic relationship with the Catholic Church. On the other hand, this regime, which characterises the state's approach, may be contrasted with more integrationist regimes often found at regional level.

By contrast, the concept of *laïcité* in France, exemplified in the 'republican' notion of citizenship, leads to some identities and social categories being foregrounded, others downplayed (in this case religious and ethnic identity), and, at least in principle, specifies which beliefs and practices are possible or permissible in public and which are not, e.g. the *hijab* in schools. Interestingly, the idea of *laïcité* as a founding principle of French republicanism was enshrined in legislation in the early 20th century, but lay dormant for many years, to be rediscovered in 1989. It has been re-constituted as a guiding article of faith and a key term in the regime for dealing with diversity, one which officially designates ethnic and cultural difference as something to be ignored in light of the prevailing 'republican' conception of citizenship. It was reclaimed as the hegemonic idea when, at least with regard to ethnic and religious relations, the French returned to year zero, so to speak, in the 1990s (see *inter alia* Bowen 2006; de Galembert 2009; Favell 1998).

The above formulation is, of course, an oversimplification. Regimes may not be easy to identify, and it should not be supposed that there is always a single unifying 'diversity gaze' as it might be called, an all-encompassing, totalising, indeed totalitarian vision, though it might sometimes seem so. As Ferrari (2008) remarks about Italy, there may be differences between the national and the local, and between different localities, and not infrequently there is confusion and hesitation all round. Within each level there may be regimes competing for hegemony, as between different government departments, and often enough the right hand may not know what the left hand is doing. Besides, regimes of diversity are not simply the 'ruling ideas' à la

Marx and Engels. They are not solely hegemonic regimes of the state; there are also alternative, non-hegemonic regimes.[9]

The relationship between regimes and configurations is likewise a complex one. While regimes (hegemonic and alternative) may attempt to specify the nature and shape of a diverse population, and give diversity a particular direction, rarely do they create it out of whole cloth. For example, although the idea that a population is to be defined by its presumed cultural specificity may be taken up, encouraged or sometimes enforced from above (or alternatively suppressed), this does not of itself generate cultural and ethnic diversity. Configurations may reflect an underlying polyethnic 'reality', that is, ways of organising relationships which may emanate from a pre-existing (alternative) regime, or indeed over-ride it: the French regime may deny ethnicity but does not thereby abolish it. On the other hand, Sikhs in Britain found it fruitful to propose the legal argument that they were a group of a particular character in order to benefit from the UK's anti-discrimination legislation (the Race Relations Act 1976, see Banton 1999). Similarly, in Europe and North America, adherents of particular beliefs might be obliged to define what they do as 'religion' (and akin to Religions of the Book), or alternatively as 'cultural' in order to gain a benefit or avoid a penalty.[10]

As these and earlier examples show, regimes and configurations and their relationship are constantly in formation, and diversity should therefore be understood as a process, diversification, not a condition; like culture, it is a verb (Street 1993). Sometimes changes happen so slowly as to give the impression of stability and permanence; at other times changes may happen very quickly. The present is one such epoch. To echo Lévi-Strauss, it is a 'hot' period, when the tempo has quickened.

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9 The hegemonic/non-hegemonic distinction differs from Baumann's contrast (1996: 115) between what he calls 'dominant' and 'demotic' discourse, even if it has affinities with it. What Baumann means by 'dominant', in the context of Britain in the 1990s, is the prevailing view that there is an 'equation between culture and community', an assumption that 'demotic' discourse challenges. 'Hegemonic', here, does not specify a particular ideology.

10 In 2009, a judge in a UK employment tribunal ruled that a belief about climate change was similar to a religious belief and therefore entitled the claimant to protection against dismissal under the circumstances of the case before him (Appeal No. UKEAT/0219/09/ZT, available from www.employmentappeals.gov.uk/Public/Upload/09_0219rjfhLBZT.doc [Accessed 26 November 2009]).

4. Sites of Contestation

Although diversification is closely connected with state formation and state power, it has a 'dialogic character' (Taylor 1994: 32; he is referring to identity), and this is illustrated in debates about diversity that centrally concern the relationship between hegemonic and alternative regimes. In exploring this relationship, it is instructive to look at key socio-institutional 'sites of contestation'.

Although debates may sometimes be about diversity as such (how much, of what kind, involving whom, etc.), they often focus on some exemplary aspect of the lives of others, taken to signify how and why diversity itself is a problem – minarets, for instance. In the UK one of the difficulties posed by immigrants, it is sometimes said, is that they do not know how to queue properly (*Daily Mail*, 14 June 2007). More seriously, central to contemporary concerns about immigration and minority ethnicity is the family, which has become an iconic cultural, social and ideological site of contestation around cultural difference and cultural and social change, and policies intended to address them, and is a powerful kaleidoscope through which to examine the lived experience of contemporary multicultural societies.

'Site of contestation' is a theoretical and methodological concept which I encountered in the late and much lamented Gill Seidel's work on discourse analysis. It is similar to Bourdieu's concept of 'field', and has affinities with the concept of 'speech situation' employed in the ethnography of speaking (e.g. Hymes 1972), and the 'situational analysis' of particular events (cases, social dramas, etc.), which anthropologists and others have frequently employed to investigate social relationships and processes. In the case of Bourdieu, Richard Jenkins (1992: 84-91) tells us, 'field' refers to a social arena defined by some crucial resource, for example education, and within that arena 'struggles or manoeuvres take place' over what is at stake. Following Gill Seidel, I would put this slightly differently. A site of contestation is a 'terrain, a dynamic linguistic and, above all, semantic space in which social meanings are produced or challenged' (Seidel 1985: 44). The idea thus refers to the way in which a closely interconnected set of institutions, discourses and practices becomes a battleground between social and cultural forces, which are engaged in a struggle over control of meaning. But not just meaning. The struggle is not only ideological or about ideology; crucially it is about practice, and about rights and duties – who may or should do what, where and when – and there may be an important legal dimension. As Bano argues with respect to Islam in the UK: 'Law thus became the site where constructions of Muslims as the Other took shape, and where internal traditions of

dissent within Islam were sidelined and deemed anathema to western intellectual thought and reason' (Bano 2008: 285-6).

A 'site of contestation' is therefore a location in which a multiplicity of actors engage in argument. This may involve both multivocality and heteroglossia, in Bakhtin's sense (1981), with a range of representations, discourses, narratives, tropes, etc., competing and in tension, sometimes within a single utterance. But voices are not equal, and the struggle is precisely around power and authority, the right to speak and name. Moreover, sites of contestation are often 'multi-sited', socio-institutionally and spatially. Contestations such as that over 'the family' are conducted within many different locations: the speeches of politicians and religious leaders, policy statements and strategies, the media, the writings of academics, Internet discussion groups, and everyday conversations. Furthermore, in the contemporary world (and specifically in the case of migrants and settled minority ethnic populations) there will be an important international dimension. And although one may speak of *a* site of struggle, contestation about the family, for instance, is likely to intersect with other struggles on other terrain, e.g. over religion or education.

Contestation in a site such as the family may thus be observed at many different (interacting) levels, and it is in such sites that the relationship between hegemonic and minority regimes is worked out, as the following examples illustrate.

5. Some Examples

(a) A Family Conversation

The first is a snatch of dialogue recorded by the Catalan anthropologist Dan Rodríguez-García (2008: 257) in the course of his study of ethnically and culturally mixed families in Barcelona.

> *Falla*: The boys, yes; it's part of my religion: if they are not […] circumcised, they're not allowed to go inside a mosque, because they're not sacred; they're not […] clean. With women, it's that I don't want them to do it.
> *Imma*: It's not a question of religion. It's a question of […] of the submission of the woman; as a punishment.
> *Falla*: No, for me, just for Omar [referring to his younger child, and only boy] we're thinking of […]
> *Imma*: Well, you've been thinking of it; I've not been.
> *Falla*: [half-joking] Well, we're going to have trouble there […]!

In exploring the situation of Senegalese and Gambian (male) immigrants living in mixed unions with Spanish nationals in Catalonia, Spain, Rodríguez-García shows how cultural debates about cultural practices (including, as in this extract, circumcision) may be observed within the conjugal relationship itself. Intermarriage, involving the formation of transcultural and transnational families, constitutes a complex socio-cultural space, encompassing both the local and the global, in which social actors, rather than cultures as whole, fixed entities, are protagonists. Their responses are very diverse and Rodríguez-García illustrates the dialogic aspect of family life as a negotiated intercultural order, as in the above extract in which *Falla*, an African from Senegambia, and *Imma*, his Spanish partner, discuss circumcision.[11]

(b) A Dialogue in Class

The second example comes from a study by a Swiss doctoral student (Kerstin Dümmler) of a discussion between teenagers of various backgrounds in a Swiss professional school.[12]

> *Admir* (Swiss, parents from Montenegro) turns round on his chair and asks – with a little smile on his face – in direction to Sabine (Swiss): "Are you in favour for gender equality?"
>
> *Sabine* doesn't give an answer. Instead Martin (Swiss) reacts: "For sure!" The discussion continues and suddenly Admir says "beat". Martin responds again: "I don't do that."
>
> The word "beat" used by Admir has attracted the attention of the whole class. Most of the students stop abruptly their work, observe the scene and listen to the discussion.
>
> Suddenly, Admir and Edi proclaim in a loud voice in class that it is important in life to find a woman to marry as long as being young.
>
> *Edi* (Swiss, parents from Kosovo) declares that Swiss people get divorced anyway. Some students in the class protest Edi's statement. Cornelia (Swiss) pleads with a little smile in her face: "But your women don't dare to get divorced."
>
> *Edi* responds – also with a little smile in his face: "They obey us at least."

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11 *Inter alia*, the dialogue illustrates the way in which the research process itself may provoke (or provide an opportunity for) thought and reflection, and perhaps bring matters to a head.

12 From Dümmler 2009. Her research on 'Religion and Ethnicity – A Survey Among Young Adults' forms part of a Swiss funded National Research Programme (Project, No. 58, Module 4, on 'Young People, School and Religion', directed by Prof. Janine Dahinden of the Univérsité de Neuchâtel).

Kerstin Dümmler's study (2009) is concerned with 'how students deal with ethnic and religious diversity in every day practices, discourses and social interactions', and she uses this episode as an illustration of the way in which their conversations debate what she calls a 'gendered moral order'. Or rather two moral orders, since Admir and Edi (whose families come from former Yugoslavia) are provocatively contrasting what they see as a Balkan patriarchal tradition against the prevailing regime of Swiss gender equality.

What these first two examples (and others of a similar kind reported in other studies) show is that debates about diversity are apparent at the micro level, in everyday conversations, and that they reveal the multitude of negotiations and compromises that occur in dialogues between spouses, between parents and offspring, and among extended family members, about who should care for elderly and distant relatives, what kind of lives young men and women should lead, how children should be raised, and, often most contentiously, who might marry whom and what kind of relationship there should be between spouses. The next two examples, from the UK, move the focus up the food chain, as it were.

(c) A Case about Cremation

A recent British court case (*Ghai v Newcastle City Council*[13]) concerned an application by a British Hindu (Davender Kumar Ghai) to allow open air cremations. The *Law Reports* (Vol 159, Issue 7369, 14 May 2009)[14] summarised as follows:

> The claimant [Mr. Ghai] was an orthodox Hindu. He wished his body to be cremated on an open air pyre following his death, and he also wanted similar open air funerals for other Hindus. He approached the defendant local authority to facilitate those goals. The authority rejected his approach on the ground that open air funerals were unlawful under CA 1902. The claimant applied for judicial review. A Sikh temple and a charity intervened in support of his application. The claimant contended, inter alia: (i) the general words of s 7 of the 1902 [Cremation] Act could not, in the absence of clear words or by necessary implication, override his fundamental right to undertake an open air funeral pyre in accordance with his religious or cultural beliefs, and that the word crematorium in reg 13 of CR 2008 could be read as meaning an open crematorium; (ii) an interference

13 Ghai v Newcastle City Council [2009] EWHC 978 (Admin) (08 May 2009). Decision of Mr. Justice Cranston. Available via http://www.bailii.org/ew/cases/EWHC/Admin/2009/978.html [Accessed 19 May 2009].

14 http://www.lawreports.co.uk/WLRD/2009/QBD/ghai_v_newcastlecc.htm [Accessed 26 November 2009].

with the manifestation of his religious beliefs could not be justified pursuant to Art 9 of the Convention; and (iii) preventing him from exercising his "moral/religious/cultural/familial choice of a funeral rite" would breach his right to respect for his private and family life under art 8 of the Convention.

The charity represented was the Wildlife and Welfare Trust, described as 'concerned with assisting persons of no religious faith, and those like the claimant of strong religious faith, to obtain lawful access to cremation or burial of human remains in natural circumstances' (England and Wales High Court (Administrative Court) Decisions 2009: para. 1).[15] The case has many angles, and the arguments put forward by the different parties, both before the judge and in the wider public sphere (not least on television[16]) are of considerable interest. For example, the claims made by Mr. Ghai and his supporters are not as widely espoused by Hindus and Sikhs in Britain as they suggest. Not all believe that open air funeral pyres are necessary for a 'good death', a matter for considerable discussion and dispute between the experts who gave evidence on behalf of the various parties.

It is worth the reader's while to pay attention to the judge's very detailed report and close analysis as well as to the language used and how this wording contrasts with everyday speech, in broad terms, the way in which the discourse is formulated. The judge drew on a variety of evidence, including that of the expert anthropological witnesses, to come to a view about whether or not the practice of open air cremation, which some Hindus and Sikhs were claiming as their right under the Human Rights Act and the European Convention on Human Rights (ECHR), could be permitted in a diverse society like the UK, taking into account the views of both the majority and minority populations and also government legislation on health and safety, pollution, and so forth. His conclusions may be summarised as follows:

- The Cremation Act 1902 and subsequent Regulations prohibit the burning of human remains, other than in a crematorium;
- Although Hindus and Sikhs dispute whether their religious beliefs necessitate an open air pyre and associated ceremonial, 'the evidence persuades me', says the judge (para. 160), 'that the claimant's belief in open air funeral pyres is cogent and

15 All references to the judge's remarks are from this source.

16 The website of the Anglo-Asian Friendship Society includes a number of media reports on the case with extracts from various TV news broadcasts and a specially prepared documentary on the campaign: http://www.anglo-asian.moonfruit.com [Accessed 24 November 2009].

also central to his strand of orthodox Hinduism. It is beside the point that typically Hindus in this country do not share that belief';

- Consequently the claimant's right to hold and 'manifest his religious belief in open air funeral pyres' (*ibid.*) is protected by ECHR Article 9(1) which reads:

  > *Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance*.

- Nonetheless, 'the prohibition on open air funeral pyres is justified' by reference to Article 9(2) on various grounds including, as argued by the Secretary of State for Justice, that 'others in the community would be upset and offended by them and would find it abhorrent that human remains were being burned in this way' (para. 161).

  > Article 9(2) reads:
  >
  > *Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or the protection of the rights and freedoms of others*.

- But, says the judge, 'This is a difficult and sensitive issue [and] a court must accord primacy to the conclusion of elected representatives';
- Thus, 'the claimant needs to pursue his cause in the public sphere, by campaigning, lobbying and the use of the other avenues open to him in a democratic society to try to effect a change in the legislative framework' (para. 123).

However, that was not the end of the story, as Mr. Ghai appealed against this verdict. When the appeal was heard in January 2010, the court reversed the earlier decision. The reasons given had little to do with whether or not Mr. Ghai's beliefs were in accordance with the Hindu religion. Instead, the court sought ways in which Mr. Ghai's wishes could be accommodated within the current law. As the appeal judges recorded:

> documents put in on behalf of Mr Ghai for the purpose of this appeal, suggested that his religious belief does not in fact require him to be cremated, after his death, on a pyre in the open air. As was confirmed by his counsel on the hearing of this appeal, Mr Ghai's religious belief would be satisfied if the cremation process took place within a structure, provided that the cremation was by traditional fire, rather than by using electricity, and sunlight could shine directly on his body while it was being cremated. An example of the

> type of structure which would be acceptable to him was shown to us in the form of photographs of premises in Ceuta in Spanish Morocco.

Whether this would be acceptable within the existing Act and regulations, which specified that a crematorium was a certain kind of building, hinged in large part on the interpretation of the word 'building'. After much deliberation the appeal judges ruled that a structure which would accommodate Mr. Ghai's wishes could be considered a building and would satisfy the existing legislation. So Mr. Ghai won through what some described as a typically British compromise.[17]

(d) A Debate Among Muslims: The Muslim Arbitration Tribunal's Proposals over Forced Marriages

The Muslim Arbitration Tribunal (MAT) was created in 2007, 'to provide a viable alternative for the Muslim community seeking to resolve disputes in accordance with Islamic Sacred Law and without having to resort to costly and time consuming litigation'.[18] In 2008 the MAT launched an initiative and published a report to tackle the problem of forced marriages, especially where these involve British-based and overseas-based partners. It proposed a number of measures to deal with what it describes as a 'crisis' which has 'loomed within the Muslim community without being noticed or dealt with for the past two decades' (2008: 9). A press release[19] argued as follows:

> MAT seeks to root out forced marriages from the Muslim Community. The Muslim Arbitration Tribunal will launch its proposals within the Muslim Community for discussion and support of the Muslim Community to root out forced marriages in their midst. At a presentation to be given to leading Muslim Community scholars and representatives […]

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17 Ghai, R. (on the application of) v Newcastle City Council & Ors [2010] EWCA Civ 59 (10 February 2010). Text available at http://www.bailii.org/ew/cases/EWCA/Civ/2010/59.html [Accessed 17 February 2010]). I tend to agree with the view taken by the *Guardian* newspaper (http://www.guardian.co.uk/commentisfree/2010/feb/11/the-art-of-compromise [Accessed 11 February 2010]), that the judgement was a skilful piece of judicial compromise; it by-passed all the debate about Hindu practice, which much exercised the original judge. For a somewhat less sanguine interpretation of the judgement, see the comment by Roger Ballard on the Pluri-Legal list, 13 February, 2010. This may be accessed via https://www.jiscmail.ac.uk/cgi-bin/webadmin?A0=PLURI-LEGAL [requires login].

18 http://www.matribunal.com/ [Accessed 12 October 2009].

19 Initiative on Forced Marriages – Press Release, http://www.matribunal.com/initiative_press.html [Accessed 26 October 2009].

> Shaykh Faiz Siddiqi, Chairman of the Governing Council of the Muslim Arbitration Tribunal, alongside Judges of MAT will offer dynamic solutions to stamping out forced marriages within the Muslim Community.
>
> For decades, young Muslim men and women have been forced into marriages out of a false sense of duty and honour. Much unhappiness and at times violence has resulted inflicting pain on the individuals concerned. The Government's legislation through the introduction of the Forced Marriages Act 2008 is welcomed. The question being asked in the Muslim Community is does it go far enough? Shaykh Faiz Siddiqi will inform the Muslim leaders that the extent of the problem of forced marriages within the Muslim Community is grossly underestimated. In fact over 70% of the marriages which include a foreign spouse have some element of coercion or force. The true figure is not in the hundreds but in the thousands. [The report] containing a summary of key findings relating to forced marriages within the Muslim community […] will recommend an action plan for community, government and other NGOs in tackling the crisis of forced/coerced marriage.[20]

The background to this is the extensive debate that has taken place in the UK and other European countries over the rights and wrongs of arranged and forced marriages, especially as these concern migrants and ethnic minorities of South Asian or Middle Eastern origin. This debate has involved many voices and shades of opinion among majorities and minorities (Grillo, forthcoming), and, among the latter, concern has been expressed that government initiatives in this area have been less about marriage as such than about immigration control. One of the things that the MAT initiative sought to do is protect the rights of those British citizens who legitimately wish to arrange a marriage with a partner in the subcontinent and differentiate them from cases where force or coercion is employed to create a 'marriage of convenience'. Referring principally to marriages between British-based and overseas-based partners, the MAT proposed a procedure that would involve the British partner making a 'voluntary deposition' to be scrutinised by MAT-appointed judges, who would satisfy themselves that the proposed marriage was 'without any force or coercion'. Their declaration could then be used in support of applications for entry to the UK. In the event that the marriage was deemed forced or coerced, the MAT might seek a Protection Order under the Forced Marriage (Civil Protection) Act 2007. Through this initiative the MAT would in effect become an interlocutor with the government and the legal system, and the procedures it would establish might provide an illustration

20 For the Report see MAT 2008; a video of Shaykh Faiz Siddiqi's presentation at the launch of the initiative is available at http://www.matribunal.com/initiative_qa_sfs.html [Accessed: 8 July 2009].

of what the Archbishop of Canterbury meant by a 'supplementary jurisdiction' in his controversial speech about sharia (Williams 2008).[21]

It is interesting to compare the MAT proposals on forced marriage with the stance taken by a different body, the Islamic Sharia Council, over another, ultimately related issue, the 'Muslim Marriage Contract' (see Grillo 2009: 25-28). In August 2008, a British-based organisation called the Muslim Institute published what is called a 'Muslim Marriage Contract' with the support of a wide range of Muslim and other organisations. The Contract was:

> drafted after prolonged consultation with religious scholars, community leaders, national and regional Muslim organisations, including organisations of Muslim women [and] reflects a consensus effort of Islamic scholars and experts in family matters to lay down and protect the rights of both parties to a *nikah* (non-registry marriage) guaranteed under the Shari'ah (Muslim Institute 2008: 1).

It added that by following the proposed guidelines, 'Muslims married in Britain will be able to access the British courts regarding marital issues whilst at the same time enabling British courts to enforce the rights of parties to a Muslim marriage in accordance with the Shari'ah'. Thus, those involved were trying to produce a form of agreement which would enable Muslims to conform to the laws of the UK and at the same time be consistent with sharia principles.

Although the Contract had many supporters both inside and outside Islamic communities, it also had opponents, including the Salafist-oriented Islamic Sharia Council in a statement (2008) which found that the contract 'contains numerous flaws which contradict the Quran, Sunnah and Ijma of our previous scholars including the four great Imams [and] has introduced into the Sharia many elements that are alien to both the text and the spirit of the Sharia'. The theological (and political) arguments obviously demand attention, but here I simply make the point that the Marriage Contract is a compromise, a negotiated accommodation on the part of some actors which moves towards compliance with the demands of British law (and courts) while remaining (its authors would argue) consistent with Islamic law, and this is similar to the spirit of the MAT proposals.

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21 Prakash Shah (personal communication) suggests that the MAT is 'positioning itself as a tribunal that British law could recognise more easily [than the sharia councils]; note the lack of the reference to "sharia" in its title. Anecdotal evidence suggests that like most other councils its business is also restricted mainly to marriage cases'.

6. Diversity and Moral Orders

Without going into detail, let me make a number of analytical points about these and other seemingly very different examples of debates and 'conversations'.

First, and obviously, they are each debating diversity, whether at the micro-level in personal lives, or at the level of government policy and the courts. Indeed, these debates and conversations (for example about marriage) provide an entree into the vexing question of the relationship between what happens in different discursive sites: political rhetoric on the one hand, family life on the other.

Secondly, they are occurring within as well as between minority and majority ethnic and religious groups. They take place not only within the establishment (amongst archbishops, government ministers, lord chief justices or media moguls), but within minority communities themselves at many different levels. Indeed, as much if not more is happening in internal debates within minorities as is happening in debates within majority groups *about* minorities. As the Archbishop of Canterbury said when explaining his controversial views on the availability of Islamic law within the UK: 'there's a lot of internal debate within the Islamic community generally about the nature of Sharia and its extent'.[22]

Thirdly, these examples show that diversity (diversification) involves alternative (sometimes conflicting) regimes that are, in fact, also moral orders. By moral orders I refer to beliefs and values that provide guidelines (or imperatives) for right and proper conduct. Debates about diversity (on all sides) frequently (albeit not exclusively) concern what to do about ethnic, cultural, and religious minorities' beliefs and practices and the moral orders underlying them in the context of other moral orders that are hegemonic.

Finally, there is what we may term an anthropological 'uncertainty principle': Some actors may have a clear-cut vision; many more will, consciously or not, be sifting through alternatives, uncertain about what to do for the best, shifting from one vision to another as circumstances, personal and collective, change.

Moral orders are an aspect of multicultural diversity that is sometimes overlooked: pluralism is, among other things, about the plurality of conceptions of morality, and this is implicit in much discussion about difference; after all, religion entails morality.

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22 From the transcript of an interview with Christopher Landau of the BBC *World at One* programme, 7 February 2008, available at http://www.archbishopofcanterbury.org/1573 [Accessed 13 August 2008]. Anthropologists have many reservations about the use of the term 'community', and often put it into inverted commas.

The family, for example, constitutes a moral order in which reciprocal obligations (rights and duties) are central, and the familial moral order provides guidelines or rules for constituting relations between kinsfolk and affines, and between men and women (across gender and generation), and for identifying their transgression. Birth, marriage, the upbringing of children, death, all come within this moral order.

This position reflects what in British anthropology would have been described as a 'Fortesian' approach to kinship.[23] 'Kinship', argued Meyer Fortes (1970: 242), 'is binding; it creates inescapable moral claims and obligations'. It is not necessary to accept Fortes' idea of kinship as an irreducible or 'inescapable' (biological, psychological) factor, to be sympathetic to the view that kinship and affinity entail ideas about right and proper behaviour. Familial relations are traditionally underpinned by ideological systems (often religious systems) carrying great moral authority, though obviously these ideologies are not the same everywhere nor do they have the same force. Certainly it could be argued (has been argued) that in contemporary societies of the North, the moral authority of kinship has been progressively attenuated.[24] Nonetheless, the kinship ideal retains a moral authority, particularly in those parts of the world whence Europe has historically drawn its non-European migrants (Ballard 2008).[25] What Fortes failed to recognise, however, is that the moral order is not necessarily unchallenged; that there is, most obviously in many contemporary societies, a multiplicity of discourses and narratives around the family, and a multiplicity of contesting voices, and much disagreement about what the moral rules are or should be and/or how they might be interpreted or applied in a particular case.

Families are important because at both macro and micro levels they are seen as fundamental in the production and maintenance of difference, and thus are one site in which a presumed clash of cultures is played out. In a globalising world, moral orders come under pressure, not least in a migratory context. Migration is important because it is a catalyst for changing perceptions of self and other and forces (re)interpretation of beliefs and practices, though many people, most of the time, are casting

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23 See also Epstein 1981: 243 ff. Fortes's approach was conventionally opposed to Edmund Leach's more instrumentalist view that kinship was a way of talking about property relations (see Leach 1961; Tambiah 2002).

24 And, some say, good riddance; Leach in his 1967 Reith Lectures commented: 'Far from being the basis of a good society, the family, with its narrow privacy and tawdry secrets, is the source of all its discontents' (1968: 44). His position may have reflected contemporary (Laingian) psychoanalytical thinking about schizophrenia. See more recently Oliver James (2002), who interestingly studied Social Anthropology at Cambridge.

25 Though migrants from southern Europe may (once?) have thought similarly.

around, uncertain as to what to do for the best. On the one hand, we can observe the pressure in the heart of the family itself, in the relationships between husbands and wives, sons and daughters, mothers and fathers, sisters and brothers, and their arguments, quarrels, conversations, and so forth. But in contemporary multicultural societies, the family, especially the family that persists in maintaining 'other' values and practices, comes under pressure from the receiving society and its institutions. This becomes a matter of daily concern to teachers or social workers, for example. And this may be observed in both external and internal debates about the family. Recent debates over arranged and forced marriages in the UK are a good example (Grillo, forthcoming).

Debates over Arranged and Forced Marriages in the UK

At both macro and micro levels (in the public square and in the privacy of the home, Manzoor 2007; Sanghera 2007), and in the interplay between the two, the marriage arrangements of immigrant and minority ethnic families are a site in and around which a multiplicity of voices contest alternative representations of how they should be constituted, and what moral orders and legal principles they should observe. There is a multiplicity of actors and voices, including government ministers, members of parliament, political parties from all points on the spectrum, civil servants, journalists, lawyers, judges, the police, social workers, teachers, religious leaders, prominent members of minority ethnic communities and their associations, minority and majority activist organisations, including human rights and feminist groups, minority ethnic men and women of all ages, novelists, playwrights, film-makers, and not least academics (including anthropologists). These voices represent a multiplicity of subject positions, which are never, or rarely, to be equated with particular ethnic categories. Above all, they are of unequal power and authority, and the struggle is precisely around the right to speak and name.

Let me pursue this a little further with a semi-hypothetical example. Many settlers of migrant origin in Britain and other European countries are from societies where the moral order of the family, which they favour, is closely articulated with, and receives legitimation from, wider politico-jural and, perhaps especially, religious domains. But they now reside in societies where there is a disjunction between the two. That is, where the moral order and the practices that go with it are at odds with the prevailing moral order and diversity regime.

Table: Alternative Responses to the Debate about Arranged and Forced Marriages

Possible Strategic Response	Examples in the UK
Acquiesce	Condemning and abandoning forced marriages
Negotiate exemption	Lobbying to protect arranged marriages
Claim a space through a compromise	Instituting a sharia-compliant marriage contract
Circumvent through sub rosa institutions	Working through sharia councils, or institutions such as the Somali *gar*
Resort to self-help	Kidnapping, so-called 'Honour killings'?

For some, at least, let us be specific and say some middle-aged or elderly men, their conception of a proper familial moral order, their patriarchal conception of such an order, lacks the backing of the politico-jural domain, indeed may be denied by it. For those concerned, some or all the following options might seem available to advance their interests: acquiesce; negotiate exemption; claim some space for their alternative perspective by seeking a compromise; circumvent through subterfuge, or under another guise; take matters into their own hands even at the risk of running afoul of the law. Evidence from the UK concerning arranged and forced marriages provides examples of all those strategies and others besides.

These responses should not be seen as discreet types; acquiescence in the condemnation of forced marriages may be a pre-requisite for negotiating an exemption for arranged marriages. Nor should they be seen as once-for-all decisions made by individuals to follow one path or the other. People may hesitate (pick and choose) between them, or change their perspective according to their own life-cycle events, or events in the wider society. Moreover, within any group, different strategies will be followed by different parties (young women?) at the same time, or at different times by the same party.

This point is similar to one made by the Canadian-Israeli political scientist Ayelet Shachar in *Multicultural Jurisdictions* (2001), a book that, incidentally, impressed the Archbishop of Canterbury and informed his intervention in the sharia debate. In this instance, Shachar is discussing group responses to assimilation pressures, and

identifies three strategies: 'full assimilation'; 'limited particularism'; and 'reactive culturalism'. 'Limited particularism', which is defined as 'political, social and economic integration along with the retention of some aspects of the group's cultural traditions' (2001: 33), is close to what I have called elsewhere (from the perspective of state policy) 'integration plus' (Grillo 2007). The options listed in the table fall within her latter two strategies. They are forms of 'limited particularism' and 'reactive culturalism'. However, what needs to be emphasised is the room for manoeuvre that is revealed by these options, and this brings us to another point, the way in which hegemonic and minority (alternative) diversity regimes and moral orders are 'interarticulated'.

7. Interarticulation and Negotiation

The term 'interarticulated' also comes from Meyer Fortes, writing in the 1960s about kinship in African societies. Much is to be gained from his conception of the relationship between familial and politico-jural domains. Fortes argued that 'the rules and sanctions that lie behind kinship relations and institutions everywhere […] cannot be understood without regard to the political and jural constraints that are generated in the extra-familial domain of social structure' (1970: 71). And later he refers to 'the constraints from the complementary politico-jural domain that help to shape the familial organization in every society' (p. 80). 'Jural' he defined as:

> denoting certain aspects of elements of right and duty, privilege and responsibility, laid down in the rules that govern social relations. They enter, I suggest, into all social relations and not only those that are conventionally described as legal, however wide a meaning may be given to this term […] It is distinctive of these […] that they have the backing of the whole society. That is to say, they derive their sanction from the political framework of society. They thus have "public" legitimacy in contrast to the "private" legitimacy of rights and capacities based solely on moral norms or metaphysical beliefs (1970: 89; see also Barnes 1971: 228).

In some societies, such as the Tallensi of Northern Ghana, conventionally described by anthropologists as traditionally 'acephalous', without a state, the two domains are 'fused into one' (Fortes 1970: 127). In other – centralised – societies they are differentiated; the former is embedded in, or 'interarticulated' (1970: 133) with the latter. Fortes was writing about pre-colonial African societies, but we can translate what

he meant by the 'politico-jural' domain into more contemporary language by saying that it represents the hegemonic political, legal, and religious institutions – or in other words, regime. But the way in which a domain such as the family is interarticulated with the hegemonic regime or moral order is critical, especially where there co-exist a variety of alternative (subordinate) familial regimes and moral orders associated with immigrants and minority ethnic populations of migrant origin.

Pace those who contend that there is an uncomplicated deterministic relationship between the two (Morgan 2007), the way in which, in contemporary societies, a particular familial moral order is in ideology and practice interarticulated with the politico-jural domain (specifically the state) and/or the religious domain, and perhaps endowed with authority through legislation, social policy, politico-social and religious rhetoric, and media comment, is not straightforward, and indeed may be constantly changing. Debates about the immigrant and minority ethnic family, and indeed the ethnography of familial relations, show that while top-down imposition may sometimes occur, interarticulation has a dialogic character in which there is a complex and shifting *rapport de force*. Minority diversity regimes [or minority moral order(s)] are continually in dialogue with the hegemonic diversity regime [or hegemonic moral order] and to a degree vice versa: regimes interact with one another, certainly in Britain and many other multicultural societies, and such societies are best seen as orders in which interarticulation is 'negotiated'.

The term 'negotiated order' is associated with the American social scientist Anselm Strauss. 'A social order', says Strauss (1978: ix), 'even the most repressive, without some form of negotiation would be inconceivable'. The negotiated order of an organisation comprises the 'sum total of the organization's rules and policies, along with whatever agreements, understandings, pacts, contracts, and other working arrangements currently obtained' (1978: 5-6). There is, he argues, always some room for manoeuvre, even in a totalitarian state. Negotiated order theory:

> emphasizes the fluid, continuously emerging qualities of the organization […] Organizations are thus viewed as complex and highly fragile social constructions of reality which are subject to the numerous temporal, spatial, and situational events occurring both internally and externally (Day and Day 1977: 132, cited in Strauss 1978: 260).

Strauss's concept of a 'negotiated order' was briefly adopted by some anthropologists in the UK in the 1970s, notably by those taking a transactionalist approach (e.g. Kapferer 1972; see also Roberts 2005), but has remained influential in the USA, especially among social psychologists. It is not without critics (see Strauss himself

1978: 247 ff., and Day and Day 1977), particularly in relation to how the theory incorporates power relations and macro-structures, and Strauss is not always clear on what he means by 'negotiation', and how it is different from, say, bargaining. But my objective is not to specify how and why the concept of 'negotiated order' is theoretically significant, nor tackle the problems it poses, but to make the point that a diversity configuration guided by a principle such as multiculturalism (under a multicultural regime, however that is defined), is continually in formation, and that the process involves social actors doing what they can to achieve their goals, even if they are unsure about what those goals are or should be, and where it is leading.

To return briefly to the cremation case: Although local authorities have always rejected the idea of an open air funeral pyre, they, and funeral directors, have made a number of accommodations that permit some Hindu funeral practices to be reproduced, at least in part. For example, funeral directors have allowed family members to participate in the washing of the body of the deceased; at the crematorium the body of the deceased (especially the face) may be left uncovered, and the senior mourner (e.g. the eldest son of a deceased parent) may be allowed to press the button that conveys the body into the burner, as a substitute for lighting the funeral pyre. There are other ways, too, in which Hindu practices have been accommodated, though these fall far short of what believers such as Mr. Ghai feel is appropriate. All this involves processes of direct and indirect negotiation.

In sum, a negotiated order is one where social actors orient their actions towards one another (in Weber's sense), seeking to achieve their own ends, which may or may not be mutually compatible, under conditions where neither side wishes or is able to impose its will in its totality. Thus in the case of a multicultural society such as Britain, *the diversity configuration emerges through the interaction of numerous actors (occupying various subject positions) engaging, among other things, in negotiations (defined in the broadest sense) over diversity regimes, within specific (contested) sites such as the family or the legal system.*

One consequence is that multicultural societies are often highly heterogeneous and fragmented, a mass of contradictions. Pnina Werbner (2005: 763-764) puts it very well:

> multiculturalism in Britain […] is a rather messy local political and bureaucratic negotiated order, responsive to ethnic grassroots pressure, budgetary constraints and demands for redistributive justice. It is bottom-up rather than top-down. […] a constantly evolving historical process of repeatedly negotiating difference and dialogical citizenship in the

> context of national and inter-national conflicts, often beyond the control of the actors involved.

The idea of 'negotiation' is also present in Shachar's concept of 'transformative accommodation' as a political strategy or policy, which so appealed to the Archbishop of Canterbury in his speech on sharia (Williams 2008[26]). 'Transformative accommodation', she observed, 'seeks to negotiate and set in motion a dynamic system of complementary multicultural jurisdictions, which leaves room for social experiment and historical development' (Shachar 2001: 127). She also argues that it:

> seeks to create institutional conditions where the group recognizes that its own survival depends on its revoking certain discriminatory practices, in the interests of maintaining autonomy over sub-matters crucial to the group's distinct nomos[27] (p. 125).

Her scheme rests, perhaps naively, on assumptions about groups and individuals responding 'rationally' to the sticks and carrots on offer, yet something of the sort seemed to have happened in the course of the British debate about arranged/forced marriages: the state made concessions and the nomos made concessions in return, and vice versa; a negotiated order, in fact.

8. A Murky Conclusion?

Apart from his work on kinship, in which he took issue with the Fortesian approach, Edmund Leach is known for his study of Burmese politics, in which he famously concluded that myth is 'a language of argument, not a chorus of harmony' (1954: 278), and much the same could be said about moral orders that generate much disagreement about what rules are or should be and/or how they might be interpreted or applied in a particular case. Leach's remark formed part of his refutation of the prevailing structural-functionalist paradigm, and has claims to be considered the first expression of 'post-modernism' in British anthropology. I was reminded of his

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26 He interpreted it as 'a scheme in which individuals retain the liberty to choose the jurisdiction under which they will seek to resolve certain carefully specified matters'.

27 I.e., identity and world view. Nomos refers to 'the normative universe [of a group] in which law and cultural narrative are inseparably related' (Shachar 2001: 2); she adds that she uses *nomoi* communities 'to refer primarily to religiously defined groups' with a comprehensive world view.

observation by a review, by the historian Keith Thomas, of a book on the English civil war by Michael Braddick, which is worth quoting:

> The moral [Braddick] draws is disconcertingly postmodernist. After his long, carefully grounded, empirically based narrative, Braddick […] plumps for indeterminacy. "Experiences of these conflicts," he declares, "were plural, ambiguous, divided and contrasting; their potential meanings equally diverse." They deserve to be remembered […] "not for a single voice or consequence, but because they provide many knowledges for our discourse" (Thomas 2008).

'His impressive book', added Thomas, 'deserves a less murky conclusion'. No chorus of harmony, then, and this was what attracted me to Thomas's comment, since I had been driven to a similar murky conclusion about British multiculturalism in which I observed, 'many trajectories are apparent: hybridity, yes, but also integration, with varying degrees of cultural diversity; assimilation and "parallel lives"' (Grillo 2010).

Actually existing multicultural diversity (echoing Schierup 1996) is, then, best understood as the outcome of complex interactions and intercultural dialoguing, akin to an 'ethnic dialectic' (Grillo 1998). It is a modus vivendi, which may sometimes be imposed but is more often reached in more complex interactive fashion. That modus vivendi might be temporary and unstable or longer term and more structural, or translated into institutional structures (e.g. in law). As Shachar argues, understanding multiculturalism 'requires that we recognize that we are dealing with a highly dynamic system of inter-related interactions occurring between the group, the state, and the individual' (2001: 15). It may then be conceived as an emergent, negotiated order, the result of the interaction of a multiplicity of actors that reflects (inter alia) the *rapports de force* (local, national, and international) at play in contemporary societies.

This conclusion, however, is provisional and subject to a number of reservations. First, this paper's emphasis has been on process rather than cause, and the basic question of how and why cultural difference has become such a debated and contested matter in contemporary Britain and elsewhere in Europe has been left to one side. To answer that question means situating processes of diversification within the changing social, economic and political context and framework, and that very important task has not been addressed here (but see Grillo 1998, 2003, 2009, 2010). Secondly, while those processes must be understood in terms of their specific historicity, that specificity may become clearer through comparison. Though it may be suggested that the characterisation of British multiculturalism as a *negotiated* order presents a somewhat rosy, even self-congratulatory picture, what has been proposed does,

I would argue, fit the British situation better than some alternative models. Nonetheless, comparative work is needed to see whether it is an appropriate one for other contexts. Thirdly, and related to both points, there are questions about power and authority. With regard to negotiation, for example, some societies, sites, or domains, some ideologies or social actors, may be more open or closed to debate than others; some boundaries may be, or may become, more or less open to negotiation; there may be, or appear to be, incommensurable differences between some moral orders.[28] As Strauss himself says (1978: 252): 'One of the researcher's main tasks […] is to discover just what *is* negotiable at any given time'. In some instances, the case of Jews in Nazi Germany, for example, opportunities for negotiation are highly constrained, if not impossible. There may also be considerable variation in the extent to which the parties engaged in dialogue are able to bring resources to bear, and how they differ in terms of the available social capital, the social, economic, and political forces at their disposal. Fourthly, intersectionality. The paper's focus on contemporary debates about *cultural* difference means that other kinds of difference (economic, political), or discrimination in the conventional sense, which many would regard as fundamental, has been neglected. This is in no way to diminish their importance, nor ignore how one kind of difference may be related to another, but it has not been my purpose to address those issues in this paper.

Despite these limitations, it is hoped that this attempt to identify a starting point for studying both the family and legal practice in diverse societies may shed some light on the politics of multiculturalism in the current socio-economic and political era, and more grandiosely, the shape of politics in late modernity.

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28 I thank Ali Rattansi for drawing my attention to this point.

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