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

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Foreword

The foundation for this thesis was laid a good decade ago at the Department of Political Science at the New School for Social Research, New York. With the political scientist Aristide Zolberg as my main supervisor, I had become interested in how nation-states manage diversity – and how the challenge of accommodating newcomers, be they religious or linguistically different ‘others,’ was met with different strategies in the United States than in Europe. Furthermore, I had become interested in the question of secularism. The terrorist attack on the World Trade Center 2 weeks after my arrival in New York and an independent study with Talal Asad at CUNY in 2006 on the subject were both deeply formative. Just a few years previously, Asad had published his Secular Formations (2003), an influential book in which he criticizes liberal philosophers like Charles Taylor for being blind to the colonial history that allowed the ideology and liberal norm of secularism (as strict neutrality and privatization of religion) to gain force. At the time, Asad, together with the social scientist José Casanova and philosophers like Jürgen Habermas, Rajeev Bhargava, and Charles Taylor, was at the forefront of a new research agenda on ‘multiple secularism and secularities.’ This agenda sought to revise and critique standard notions of secularism. This effort was institutionally backed up by the influential Social Science Research Council and their Religion and the Public Sphere Program.

In short, deeply inspired by this intellectual climate, I framed my project in terms of a comparative study of secularism. Through comparative and historical analysis I intended to interrogate liberal assumptions about the required state neutrality of secular states, prevalent at the time in much of normative political theory.

This focus changed upon my moving back to Europe in 2007. The philosopher and sociologist Veit Bader, my mentor before my departure to New York, and co-supervisor from 2013 on, had just published his book Secularism or Democracy? (2007) in which he made a forceful argument about the blind spot of liberalism when it comes to the theme of religion, much in line with my own project: Any liberal presumption about religious state neutrality is not only descriptively false, but also normatively undesirable. However, Bader also forcefully argued for abandoning
‘secularism’ as a key normative and comparative concept for an international research agenda. That was a rather unfashionable and uncomfortable argument to accept.

This was especially the case when I got funding in 2010 using this term as a key concept for my project: ‘Secularism Contextualized: A Comparative Study of Secularism as a Practice in France, The Netherlands and Norway.’ My acceptance into the PhD program at the Theological Faculty and PLUREL in 2010 involved a major shift in my academic environment: Not only had I, as I jokingly told my friends, “traded in Hannah Arendt for Jesus Christ” (at the New School there hung a picture of Hannah Arendt beside the department copying machine, at the Theological Faculty it was Jesus). More substantively, my institutional affiliation involved engaging with new disciplines like theology and religious studies. I was very fortunate in these early years to be able to participate in the excellent PLUREL colloquium group led by Professor Terje Stordalen. There I learned that my colleagues and I had a lot in common in terms of our conceptual apparatus, though we differed in how we worked with these terms. Impressed with the sophisticated way in which my colleagues interrogated concepts like religion – I thank specifically: Vedbjørn Horsfjord, Margrete van Es, Aike Rots, Helge Årsheim for these good discussions – I was nevertheless puzzled by the often tacit assumptions in these discussions that demanding conceptual boundaries meant committing the crime of essentialism – or worse: colonialism and Eurocentrism. The preferred mode of inquiry there, I understood early on, was a deconstructive one: any definition being seen as suspect. Yet, given my Asadian leanings, I had no problem adapting to this mode of inquiry. But as my work proceeded, I struggled to make sense of my comparative fieldwork findings in which the demand for conceptual boundaries proved crucial to deciding what I was actually seeing.

Another moment of interdisciplinary struggle that provided a similar insight arose from my role as a coeditor of an anthology on Scandinavian secularity, a volume I edited together with José Casanova and Trygve Wyller in 2012-2013, which inquired into how ‘typically secular things’ (matters of state) in the Scandinavian context (sometimes) blended with ‘typical religious things’ (matters of religion). With contributions from a wide range of disciplines, the anthology showed how internally blurry the distinction between secular and religion was to Lutheran theological thinking. And it suggested that this theological background impacted the historical and contemporary intertwinemenet between state and church functions in Scandinavia.
Conceptually, for me, that editing process represented a legitimization of a Lutheran tradition, or secularism, as the name for a way of carrying out religious dialogue (Leirvik: 2014). There were strong scholarly impulses from the different contributors to claim that there was something such as “Lutheran secularity” or “Nordic secularism.” (We of course also asked them to frame their analysis in such terms.) And although it was my job as coeditor to unite these contributions under the concept of secularism, this act stood opposite to my own fieldwork findings where putting such labels on my respondents’ reasoning proved problematic.

In sum, this editing experience brought home the insight that terms like secularism and the secular are in fact deeply political. Not only do they have different implications for my informants in the field, but also for my colleagues in different disciplines and institutional contexts (e.g., debates within the Church of Norway).

All this is to say that this project is deeply formed by shifts in the geographical (North American versus Europe) as well as the disciplinary context. Over the years, I have slowly aligned myself with Bader’s desire to avoid the term secularism as a structuring etic concept (see the Introduction and Conclusion). Yet, my interdisciplinary setting at the Faculty of Theology also made me a pragmatist. Depending on the scholarly purpose, I think scholars should properly use and define their concepts. While this might seem rather obvious, it is harder than it looks: Interdisciplinary cooperation crucially depends on the capacity of scholars to think both from within and outside their scholarly tradition. Exemplary in this regard is my supervisor Trygve Wyller, with whom I have had many productive but also numerous challenging debates over the years.

One issue at stake in the debate over the secular is a deeply epistemological and disciplinary disagreement over the relationship between the secular and religion. Are they opposites, in the sense of what Taylor (2007) labeled as ‘subtraction theories”? Here, the secular is understood 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 fruit 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 one evaluate this negatively (Casanova: 2010, 267)? Or is this a positive process of internal Christian secularization? Different academic disciplines will rely on different genealogies of the secular.
My stake in that debate was never to contribute to a theological discussion. Rather, it was to show how the epistemological presuppositions of the Asadian scholars potentially obstruct ethnographic fieldwork by not addressing that life world on its own terms. Yet, Trygve’s theological and open approach as a supervisor were nevertheless very useful as he engaged and navigated with me the disciplines of the social sciences, postcolonial studies, religious studies, and theology in relation to the category of the secular. The methodological contributions of my thesis could not have emerged equally well were it not for Trygve’s disciplinary openness.

Many people and research groups provided vital input for this project over the years. I am grateful for having been given the opportunity to become a SIAS Summer Institute Fellow at the Seminar ‘Citizenship and Migration’ (2007-2008), funded by the Alexander von Humboldt Foundation and the Andrew W. Mellon Foundation. In these seminars I was able to explore some preliminary ideas for the thesis, for example, in my role as moderator on a workgroup on ‘Contextual Theory: Bridging Social Science and Normative Theory’ at Stanford University. This seminar led furthermore to an invitation to partake in a research group on ‘The Heuristic Value of Integration Models for International Comparisons,’ organized by the Wissenschaftszentrum (WZB) in Berlin. In particular I thank Ines Michalowski and Claudia Finotelli for their hosting and Marcel Maussen for his coauthoring of an article: ‘On the Viability of State-Church Models: Muslim Burial and Mosque Building in France and The Netherlands.’

Furthermore, I was fortunate to be a Visiting Scholar at CERI – Sciences Po, Paris, in 2008 and 2012. And special thanks to Prof. Riva Kastoryano, who saved my second round of fieldwork from becoming a total failure by writing a letter that opened doors. I was also a visiting scholar at IMES Institute for Migration & Ethnic Studies in 2009 and 2012 in Amsterdam. I thank the Norwegian Research Council and La Fondation Maison des Sciences de l’Homme (FMSH) for their funding.

With the shift of contexts and the range of years it has taken to complete this project I would also like to thank all my supervisors (yes, in plural). In New York this was the late Prof. Ari Zolberg and Prof. Vicky Hattam as well as a dissertation committee that consisted of Riva Kastoryano, José Casanova, and Faisal Devji. Working with Ari was wonderful! Despite being so famous, he was always very down to earth. This was also reflected in his work and our discussions over the nitty-gritty
reality of state accommodation of immigrants and new (religious) groups. His knowledge of African politics and the Ivory Coast were another binding theme of interest.

Then, I would like to thank Prof. Dag Thorkildsen for being my supervisor in my first years at the Theological Faculty. His vast historical knowledge about Norwegian state church relations were very helpful also for the selection of cases in Norway. José Casanova was my cosupervisor during those years. Warm, knowledgeable, and flamboyant, José provided great input into the conferences we organized and has been a great supporter of my work.

I finished the run with Prof. Trygve Wyller and Prof. Veit Bader as cosupervisor. I address Trygve later on. Veit’s knowledge is rather intimidating, covering vast areas in political philosophy and the social sciences. I know of very few scholars who are able to work across such breadth: from the highly abstract, philosophical to the messy reality and muddle of everyday institutions. His work is pretty much present in all the pages of this thesis. Were it not for the fact that he is also a very sympathetic and caring man, I would have found it hard to stay relaxed in his presence.

I would like to thank Associate Professor Marcel Maussen for his useful comments on my Mæstra seminar and for ‘killing one of my darlings’: He (rightly so) suggested dropping one of my best chapters on the agenda of the multiple secularisms. Wally Cirafesi provided useful feedback in the same seminar on how to display some of my respondent’s thoughts.

Then thanks to the friends and colleagues of my early Theological Faculty period for the good conversations. Terje Stordalen has been a wonderful friend and colleague and eased my transition from New School to the not always easy to decipher codes of the Faculty of Theology. I thank Sissel Finholdt-Pedersen, Kaia Mellbye Schultz Rønsdal, Helge Årsheim, Knut Ruyter, Stine Holte, Vedbjørn Horsfjord as well as the new friends and colleagues I recently made as part of the Research group ESPACE: Inger Marie Lid, Adelheid Hillestad, Carsten Schuerhoff, Kjetil Hafstad, Birgitte Lerheim, and others. I should not forget the ‘Dutchies’ at the faculty or from nearby: Karen Neutel and Aike Rots for their outstanding Dutch humor! And of course, I thank all the respondents of my fieldwork in the three countries for sharing their time, thoughts, and occasional (French) secrets of the cemetery management.
Finally, I would like to explain some of the personal context in which this project developed. Since its beginning, I have given birth to three beautiful children. My first two children each took their share of time in the form of pregnancy troubles, births, and parental leaves. I did fieldwork interviews with a baby at my breast and a 5-year-old playing in the cemetery. I edited the anthology (2012) late at night during my second parental leave, with the children (finally) asleep. Highly pregnant, I presented the anthology (November 2013) at the book launch at the American Academy of Religion. Thought to have been hard work at the time, it proved to be peanuts in hindsight.

With the birth of my son Kasper in early 2014 any sense of normality vanished. Kasper looked like a ‘normal,’ indeed gorgeous tiny baby. But over the course of time we learned that Kasper 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, or near standstill, from early 2014 until August 2018. After the first year and a half of Kasper’s life, in which we visited pretty much every hospital in Hedmark County and learned the tough reality of being a ‘disability family’ (topic of my new research project), I slowly began to work again. Halfway through 2015, I could sometimes work at 50%, sometimes at 100%, and sometimes not at all. Because Kasper’s strength varied from day to day and was dependent on the season (he was often ill during Winter), I learned to accept the unpredictability of my work circumstances. In the first two years of Kasper’s life, I still pushed for as many work moments as I could muster. This changed when, in June 2016, we heard that even more was wrong with him than presumed. Although it had taken another 6 months for the bad news of his diagnosis to fully arrive, from June of that year on I let go of this dissertation altogether. I abandoned all further fieldwork in Oslo, although that would have indeed improved the validity of my Norwegian cases. And in a general sense I learned to live day by day. I worked whenever I could but was fine where I could not. The result was a wonderful year and a half. Kasper died in December 2017.

It is against this background that I would then finally like to thank my supervisor Trygve, for having been absolutely outstanding in his role as supervisor and human being. Trygve has the intellectual capacity as a supervisor of being able to explore disciplines that are far removed from his own. He is open, smart, and creative, and his enormous experience, humor, and calm provided me with space to develop my own
thinking. Please accept my thanks for having been my academic lifeline in all these years and for respecting my wish to attempt a sense of normality, even under circumstances that did not really play along. Business as usual Trygve agreed to meet with me for supervision meetings via Skype, occasionally in the hospital or even the intensive care ward.

Thanks, too, to the Norwegian welfare state and the Faculty of Theology from whom I have received a salary all these years, something inconceivable in an American or even a Dutch context. And although there is a lot of room for improvement in the Norwegian healthcare system for disabled persons and their families (again, a topic of my new project), there is a general humanity in these institutions which has made me appreciate Norway in a whole new way.

Family and friends have been crucial. I thank Pappa and Riet for visiting us so often in the years of Kasper’s illness and for standing with us, up until the last moment of Kasper’s life. It also helped to have a father who had gone through the process of writing a dissertation. And, alas, Pappa, I did not do it faster than you! I thank my brothers and their families for visiting us in the summers and hope many more will come. I thank my aunts (Greta and Anneke) for sharing their poetry and memories; my cousin Martijn for appreciating life with me and for Schubert, Bach and ‘norske viser’; Reidar and Mona deserve my thanks for so many outdoor trips and for sharing lives under tough circumstances. Then there are my Dutch ‘besties’ scattered over the globe: Dirkie in Singapore, Paulita in Spain/Cuba (muchos besos!!!), and my Norwegian friends who have all been very important: for common dinners or trips in the woods (Elin and Anders); bathing in Mjøsa (Marianne); sushi and beer on the hospital ward (Bentita); everyday talks in Smeby (Susanne); partager l’amour de nos enfants (Henriette). Obviously, each of you deserve a much richer description than I can provide here.

Last, but not least, I count my blessings. My mother-in-law Margrete has been of great value through all these years for her support and care and for sharing so many nice moments with us in the cabin and at home. I want to thank Anstein for his unrelentless support both as an academic sparring partner, husband, and fantastic father of our children. (And yes, one sentence does poor justice to the years and years of “secularism and graveyard talk” I have exposed you to). I want to thank my children Iris and Sander, for standing their ground in all this turmoil and for providing
such a warm and loving family. Then finally, with the deepest gratitude, I thank my little man for showing how wonderful life is, despite it all.

Rosemarie van den Breemer Hamar, 04 November 2019
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Introduction: The Cemetery as a Site for Studying (New) Diversity

i. Meta-analytic Concerns and the Islamic and Humanist Burial Challenge

How do states respond to situations of new religious and cultural diversity? This question is prominent among a range of research agendas. Geopolitical events like the polarization surrounding Muslim immigrants, terrorism, and global migration have moved the question of religion to the limelight. Scholarly developments, the demise of the traditional secularization thesis, and a contextual turn have raised questions about the analytic toolbox at our disposal to address such matters. In the scholarly vacuum created by the discredited secularization theory, 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 tainted nature of terms like ‘religion’ and ‘secularism’ by the history of Western Christianity and colonialism – and in light of the potentially reifying effects of applying them to societies both within and outside the ‘West.’

This thesis engages in such a meta-analytic discussion relating to two analytic frameworks, namely, that of ‘religious governance’ (Bader: 2007b) and the research agenda of the ‘multiple secularisms.’ 1 Furthermore, it debates the appropriate scholarly concepts and models for capturing state responses to diversity. Yet, contrary to most studies on this topic, which take a theoretical or legal focus, I approach it via the most grounded analysis possible: through a study of burial practices and their everyday governance in the cemetery.

By looking at the ways in which burial professionals in nine municipalities in The Netherlands, Norway, and France respond to the common challenge of providing for Islamic sections in the cemetery, I narrow the question of state responses to

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1 The debate over ‘multiple secularizations, secularisms, and secularities’ is a rapidly expanding research agenda in the social sciences and humanities, linking together a broad range of scholarship through the concept of the secular/secularism/secularities. Yet 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 – the work of Talal Asad – and by shortly discussing the related analytic frameworks of ‘religion-making’ (Mandair and Dressler: 2011) and ‘moving beyond religion’ (Hurd: 2013); see Section 1.3.4.
diversity, first through the prism of graveyards. Cemeteries can be studied as domains in which the relationship between state and religious or cultural groups is negotiated, analogous to the greater society. Second, I look at responses to two groups of burial challengers whose burial needs (at least potentially) bring symbolic or material dimensions of existing regulations into disarray. This involves Muslims in all countries as well as humanists in Norway. Thus, I ask the following:

1) What are the institutional and discursive policy responses to Muslim and humanist burial needs, between countries and over time? What (national) similarities and differences do we observe?

Third, in an even further specification, we are curious to learn the extent to which ideas about secularism or the historical experiences of a particular country of dealing with minorities play a role in the responses of contemporary agents. Thus I 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?

The Muslim and humanist case is 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.’

Below I specify the details and rationale behind these research questions. The thesis is two-pronged: on the one hand, engaging with meta-analytical concerns and discussions concerning appropriate scholarly concepts and models, while on the other hand addressing them from a concrete life-world investigation and a historical, institutional, and discursive vantage point.

Cemeteries and (New) Diversity

By orienting our approach to state responses to diversity along a first theme, we note that, for most readers, cemeteries probably bring to mind primarily death and sadness. As archaic remnants of the past, they may be of great interest to the historian, archeologist, and perhaps the undertaker, yet for most people they contain hardly any relevance for the living, or indeed politics, today. This could not be further from the

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2 These are defined below under Section ii.
truth! Graveyards are relevant to manifold contemporary questions concerning religious and cultural diversity as regulatory domains where the relationship between state and religion is (sometimes violently) negotiated. 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 (14–18th 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 burial in the churches’ sacred ground and 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 France, Revolutionaries called for the abandonment of all class and religious privileges in the graveyard. Birth, marriage, but also death, 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.
(F. A. Boissy d’Anglas: 1793, 1953)

Catholics and 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 to 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.4

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

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3 Cette démocratie de la mort, telle que je la propose, doit-être le complément nécessaire de la démocratie politique, [...] Quoted in Van Helsdingen: 1997, 36.
4 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).
We further limit the general question to two sets of ‘challengers’: Muslims bring a new facet to this tension between state interest and religious groups. Islam is rapidly becoming the third largest religion in Europe, growing faster than the historically dominant Catholic and Protestant churches (Masci: 2004). Scholarship on Islam in Europe has revealed that, since the 1980s, this has led to the need for respective provisions, among other things, Islamic schools, provisions in hospitals, prayer rooms, houses of worship, etc.\(^5\) Relatively new in this line of institutional demands (yet scarcely addressed\(^6\)) is the need for proper burial facilities.\(^7\) 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%.\(^8\) 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\(^9\) 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.

With respect 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

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\(^7\) 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.

\(^8\) These estimates are very provisional. Exact numbers are very 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, but Turkish and Moroccan Muslims almost all repatriate (Dessing: 2001).

\(^9\) ‘The Muslim’ of course does not exist. In this study we encounter a wide range of groups: Pakistani Muslims in Norway, Muslims from Indonesian, of Surinamese, Algerian, and Moroccan descent in The Netherlands and Algeria, Moroccan and Tunisian Muslims in France (as well as from Mali). In the municipal case studies, we encounter a diverse range of organized groups belonging to different mosques or strands of Islam.
clear articulating what they do not want. Politically, they object to the fact that the Church of Norway owns – and since 1996 administers – 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 Norwegian case, it serves the additional analytic purpose of comparing responses to different minorities within the same state. The ‘newness’ of humanist demands stems from their relatively recent arrival on the scene of religious and secular groups. 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, I take a multi-levelled 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. This 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. 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. Last, I situate my investigation in the context of the concrete life-world of the responsible administrators. That means describing as exactly as possible how the burial agents experience their decision-

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10 As a matter of empirical fact, French burial agents talked a lot about Muslims. In Norway, they talked instead about humanists. As we will see, there are cross-national similarities between the responses to Muslims in France and to humanists in Norway.

11 Analytically, this serves to investigate whether the Norwegian state-organized religion model is evoked differently regarding different minorities. Initially, I had planned to compare the position of the humanists in the burial practices of the other two countries, but this proved to be moot.

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

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

14 I use the term ‘life-world,’ in a loose sense, referring to the social praxis, circumstances and experiences of burial agents in the local contexts. Because relevant decision-makers vary among national contexts, a life-world description does not pertain to that of one type of professional. Rather, I chart the different considerations, experiences, and material situations. I omit the life-world of legislators.
making process in the day-to-day situation. Herein, I pay special attention to the more implicit ideas or sensibilities (the self evident presumptions, *doxa*) 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 experience and 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).

ii. How Do States Respond? Research Questions and Main Findings

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 how the two registers of analysis in this study – the meta-analytic and concrete life-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 Talal Asad. I asked: “How is secularism used and argued for?” For readers unfamiliar with Asad, this famous anthropologist influenced a broad range of scholars with his *Genealogy of Religions* (1993) and *Formations of the Secular* (2003). 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 internal to nation-state practices. What and whom we call ‘religious’ in the West is related to 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, in regard pain and agency, which already foreclose certain possibilities of citizen actions and state
practices. What binds Asad’s work to a larger postcolonial agenda and agenda of critical religious studies is the shared suspicion of the idea of religion as a universal category. 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’ (Hurd: 2015). Alternatively, they show how these archetypical Western concepts derive their normative force and self-evident status from a history of colonialism. 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 my project. In the European public debate, I am involved in, Muslims are often juxtaposed as ‘the other’ of secularism. For example, in conflicts surrounding 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 they use and argue for secularism?” followed a rich and diverse answer concerning the ways in which burial agents perceived laïcité to determine their decisions about Islamic burial solutions. Yet, in Norway and The Netherlands, the answer faltered. Decision-makers in these countries and in municipalities did not talk about secularism or secularity in their justification of 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. I would

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


17 Scholars chart the ways in which “religion-making” (Dressler and 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).

18 The French translation of ‘secularity.’
have 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 to avoid definitions and avoid taking a normative stance (“leave the category open”). Thus, the dilemma became the following: How to resolve the tension between the declared instability of the category of religion or secularism and the need for stable scholarly categories in order to compare (or inductively study) one’s subject matter? How can we 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 1.3.1) is that it asks: “What happens?” – in our case concerning the burial needs of these groups. This general way of 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 focusing on “regulation or steering, guidance by a variety of means, not only by rules” (Bader: 2007b: 873). Yet, we 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) 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.

Leaving this fieldwork anecdote, I now further specify three sets of research questions, further operationalized at three levels of analysis.¹⁹

¹⁹ These levels are furthered specified in Appendix I.
1) What are the institutional and discursive policy responses to Muslim and humanist burial needs, compared among countries and over time? 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 used and argued for?

Policy outcomes/responses are all intentional actions that engage public authorities, including decisions not to act, in view of the accommodation of Islam or humanists (cf. Breemer and Maussen: 2012). This is not limited to the number of available provisions, the legal prohibitions, or the possibility of certain practices. But we must finetune the dependent variable as to how and why they are accommodated. To this end, within each national context on legal prescriptions we focus on national policies/practice and on municipal practices. At the municipal level, I distinguish furthermore between the institutional and the discursive dimension: What material/legal provisions are in place? Material solutions include the physical form. Further, why do burial agents accommodate? And how do they argue? What is it really about?

Table i.: Policy outcomes specified at three levels across countries

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<th>France</th>
<th>The Netherlands</th>
<th>Norway</th>
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<tr>
<td>1. Legal framework</td>
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<td>(Chapter 2)</td>
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<td>2. National policies</td>
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<td>3. Municipal practices</td>
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<tr>
<td>(Chapter 4)</td>
<td>Paris, Lyon, Montreuil</td>
<td>Amsterdam, The Hague, Almere</td>
<td>Oslo, Støren, Elverum</td>
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<tr>
<td>3.a Institutional:</td>
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<tr>
<td>material/legal</td>
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<td></td>
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<tr>
<td>provisions</td>
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<tr>
<td>3.b Discursive</td>
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<tr>
<td>findings, ways of</td>
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<td>public reasoning.</td>
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20 For France and The Netherlands, the time frame is 1800 to the present, for Norway 1840 to the present.
21 Is there a separate entrance? Are their bushes around the section? Is it visible as a separate part?
22 We also take note of the discursive dimension at the legal level and the national policy level. In order to analyze municipal discourse, we go into (a) action guiding ideas, (b) issue frames (or context of meaning) and (c) sensibilities; see Chapter 1.3.3.
These questions serve three aims: Descriptively, as an empirical field work study about what governments actually and not just legally do to religious and cultural minorities, we map an uncharted institutional domain. This allows for the development and refinement of existing scholarly models of national religious governance (Bader: 2007b). I thereby 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 1.4. I relate, first of all, to the standard pictures of religious government that exist in the literature. Do the solutions encountered fit expectations that follow from the standard conceptions of French laïcité, Dutch pillarization, and Norwegian establishment? If so, we would expect to find important differences between these three countries that are stable over time.

(HA1): 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 and a wide number of Islamic cemeteries and Islamic sections on 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:

(HA2): 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 true ‘national’ differences), and these differences can be plausibly linked to state-organized religion regimes. We conceptualize French relations (H2) as a combination of Gallican, associational, and strictly secular scripts (Bowen: 2007, 2012), The Netherlands as a combination of ‘principled pluralism’ (Monsma and Soper: 1997) and a secular tradition (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) desestablishment schemes (Breemer: 2014).
But we are also interested in this institutional factor as an explanatory and discursive factor. Do burial agents mention these national traditions as a reason behind their actions? Thus, we treat ‘reasons mentioned’ as a possible cause. Discursively, (how) does the agent appropriate elements of these state-organized religion legacies in the justification for solutions chosen? And as part of that discursive investigation: How is secularism “used and argued for”?23

Findings

The study 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 municipalities act the same: They nearly all provide for confessional sections in public graveyards.

I make sense of the above puzzle by looking at two factors and the related academic discussions: state-organized religion legacies and ideas about secularism. Legally, the historical formation of the relationship between state and church in these countries impacted the rules in regard confessional sections and cemeteries. A combined genealogy of the burial legislation and state-church relations in these countries clearly shows this. Discursively, these legacies return in the discourse – and in the ways in which local burial agent make sense of the issue. In France and Norway, these standard state-organized religion legacies formed an explicit context of meaning.

Yet, these legacies seemed to matter little for our de facto understanding of material practice. To explain this material similarity, I propose an analytic heuristic (see Section 5.5). This actor-institution constellation chart reveals the multiplicity of factors in light of what the decision-maker has to weigh and balance any concerns. One domain-specific finding lies in the role of what I have termed as ‘the logic of the

23 We have no way of assessing whether a ‘reason mentioned’ is truly a causal factor. The best we can do is to check the respondent’s answer by including a wider range of interviews and using multiple sources of evidence.
terrain,’ *le logie du terrain*, which describes the pressure decision-makers feel because groups demand to be buried together.24

As for ‘secularism usage’ (question 3), only in France is there an explicit concern with secularism and being secular. *Laïcité* serves there as a dominant cultural resource, which burial agents use to plot out their course of action. 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 that guide their choice of institutional solutions (‘sensibilities’), I found that Dutch and Norwegian burial agents are not driven by any concern about solutions being secular versus religious; rather, a central tacit motive for action across all contexts was a concern with wholeness versus fragmentation: How whole or divided should the graveyard be? In the following pages I will draw out the theoretical implications of these findings from within two scholarly literatures.

iii. Wider Research Context and Main Contributions

These findings are relevant to a broad interdisciplinary discussion on religion, immigration, and Islam. Critique of the classical secularization thesis – the idea that modernity inevitably leads to a decline of religion – had 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 1990s25 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., Kymlica: 1995)26. In the field of immigration, influential scholars like Castles (1995) made no mention of religion as something relevant to the empirical question “How Nation States Respond

24 Analytically, we see this as the influence of praxis and the behavior of the groups themselves (internal governance factor).
26 Kymlica (1995) argues for the impossible and undesired norm of strict separation and state neutrality in the case of ethnic and cultural diversity, while maintaining a norm of strict separation and privatization in the case of religious difference. His later work is more nuanced.
to Immigration and Ethnic Diversity” (the title of his essay). But this has recently all changed. Political theorists now emphasize the range of morally permissible state-church arrangements and the inherent balancing of principles involved. 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 and Alba: 2008) or the role of religion for the integration of Muslims across the Atlantic (specifically Cesari: 2004). 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. In other words, the demise of the secularization thesis has opened up new research agendas. We address two connected, yet conceptually different academic discussions: that of ‘religious governance’ (see Section 1.3.1) and ‘the research agenda of multiple secularisms and secularities.’ We 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 as affecting the state response to religious and cultural diversity (further discussed in Section 1.2). A general institutional turn in the literature points to external factors important to state actors making decisions, for example, existing national immigration laws or forms of democracy. More specifically, scholars point to two particularly relevant regimes regarding Muslims: state-church relations and integration policies (Maussen: 2009). Although the relevance of state-church relations gained in prominence in the literature (e.g., Fetzer and Soper: 2005), whether or not other factors are more important is still contested (e.g., Koenig: 2007; Minkenberg: 2008). One central question in this literature is whether national path-dependent structures are still relevant – or have they lost relevance, for example, because of a European process of policy convergence?

27 He distinguishes between regimes of differential exclusion, assimilation, and pluralism.
30 Casanova: 2006; also Gorski: 2000, 2003. Alternatively, Casanova proposes to look at epistemic knowledge regimes of secularism, rather than socioeconomic indicators (like more or less modern) to explain the secularization of Europe. Historical patterns of state-church-nation relations can explain internal variation (Casanova: 2006, 15).
Alternatively, scholars warn of the danger of reification and too simplistic institutional accounts. Along this line of reasoning state-church regimes indeed play a role in state responses to new diversity. Yet, we have to reconceptualize these national models as heterogeneous and recognize their historical idiosyncrasies.\textsuperscript{31}

Furthermore, as part of a discursive turn, scholars have begun to show how state responses depend on public framing (Bowen: 2006; Maussen: 2009). The combination of an internally plural conception of state-church models and a focus on public framing provides better explanations. To illustrate, in a study on Islamic governance, Marcel Maussen looks at policy responses to mosque-building efforts in France and The Netherlands. In Maussen’s analysis, policy outcomes follow from the combined influence of institutionalized regimes of governance and public policy discussion.\textsuperscript{32} 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 “neighborhood Islam,” this framing appealed to the more pragmatic elements in the French state-church regime, so that more accommodating policies were adapted. This suggests that parts of the institutional response of a state depend 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 \textsuperscript{33}, which cuts across several institutionalized spheres such as the regulation of animal freedom and food production, can give rise to contestation. Some groups defend their understanding of this issue based on animal rights and human cruelty, whereas other interest groups treat this solely as a matter of meat production and hygiene. Western European societies, however, may respond to the demand in

\textsuperscript{31} The various elements of the model can apply differently to different policy domains, at different moments and to different minorities. We test these as Ha2, see Section 1.4.

\textsuperscript{32} He distinguishes three levels of structuration: (1) internally plural institutional regimes (e.g., the state-church regime and its various scripts); (2) strategies of governance and policy frames, i.e., looking at Marseille over time the central shift to an understanding of mosque-building through the frame of ‘neighborhood Islam’ enables paths toward a more pragmatic approach; (3) There is a policy process affected by (a) the dynamics of political contestation or circumstantial events, (b) the practices of interpretation: rules and laws can bend under the weight of interpretation, (c) the formation of discourse coalitions, and (d) policy approaches can generate path dependencies (2009, 260).

\textsuperscript{33} I borrow here from Maussen’s (2009, 30) discussion.
analogy to previous experiences with kosher slaughtering. Previous institutional state-church arrangements toward Jews can make new challenge familiar. Depending on who wins the discursive battle, different institutions can come into play, and different institutional responses are then 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, discourse, 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 framing: How is the issue conceived? What institutions matter and how do they matter? Which elements do actors appropriate from national institutions and traditions?

This ultimately leads us back to a constructivist turn in the literature on new institutionalism (Section 1.3.3) and a discussion over the ways in which institutions influence agents. “Institutions influence behavior not simply by specifying what one should do but also by specifying what one can imagine oneself doing in a given context” (Hall and Taylor: 1996, 948). Accordingly, action is tightly bound to 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 secularism and secularities.34 To be sure, this research agenda contains a broad range of disciplines.35

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35 We can distinguish here the explicitly normative, the deconstructive or descriptive/explanatory. These distinctions are artificial insofar as scholars can use the term for several purposes (e.g., Habermas’ term ‘post-secularism’ (2008) has both explicit empirical and normative ambitions). And I would argue that there is always an implicit normative stake. But as a rough indication, for political
But the work of the genealogical orientated scholars, in particular Asad has obtained a large following and platform.  

In summary, this wider research agenda has produced some important insights. It has become commonplace that addressing the contemporary politics of religious diversity requires discarding any grand narrative of modernization. Rather than think 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 ‘secularism’ 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 have emphasized an understanding of religion and the secular as, first of all, interconnected and, second, as contingent in meaning upon the particular context. Exemplary in this sense is Charles Taylor’s (2007) book *Secular Age*, where 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 (the void or its overcoming) – which is for us

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philosophers ‘secularism’ often designates the alleged role of religious argument in the public sphere, e.g., Habermas (2008 a, b), Connolly (1999); a discussion of better or worse forms of secular states, e.g., An-Na’im (2008), Bhargava (2009a); or that of competing normative doctrines by which to regulate the relationship between state, religion, and society. In the latter case, this is further demarcated into (1) forms of secularism differentiated on the basis of the values that secularism is supposed to defend (“perfectionistic values” or “political values”). This leads to distinctions like pragmatic vs radical secularism (Modood: 2005), political vs ethical (Bhargava: 1998), political vs doctrinal secularism (Bielefeld: 2001). Or it leads to (2) differentiation on the basis of 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. For example, Stepan: 2011, Kuru: 2008, Casanova: 2009, Hashemi: 2009, McClay: 2003. Kuru (2008) distinguishes ‘passive’ from ‘assertive’ secularism as a way to typify dominant ideologies in France, Turkey, and the US - and as a way of explaining different outcomes in public policies regarding education. Other examples are 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, in the case of Casanova, that of 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 and Hurd: 2010, Rectenwald et.al.: 2015. For an explicit non-Western approach, see Burchardt et. al.: 2015. Specifically Asian is Bubandt and van Beek: 2012. And there is a Special Issue on Japanese secularism in the *Japan Review* 30 (2017).

the natural way to understand the term – is the latest stage in a historical development within Western Christianity.

Third, in particular Talal Asad’s way of looking at the secular as a way of interrogating secularism has 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 to approach secularism from ‘the bottom up,’ ‘on the ground,’ or as ‘a way of inhabiting the world.’ Talal Asad and other discourse/genealogy orientated scholars (but also José Casanova and Charles 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, relying on tacit presumptions that motivate their actions. Yet, when trying to apply Asad’s framework in a fieldwork context, this proves difficult. In particular Asad’s predicament to “leave the category open” stands opposed to the need for bounded concepts for the purpose of empirical and comparative analysis.

Contributions

It is against the backdrop of this institutional and discursive turn within these two scholarly literatures and the thesis findings that I want to make a contribution, actually two main ones. The first is of an empirical descriptive nature: Through the empirical prism of this burial domain study, I show how the standard pictures (Ha1: laïcité, pillarization, and establishment) that we have from these countries and their inferred way of dealing with religion are better descriptors of legal burial differences than burial agents’ actions in practice. At the level of municipal practice, these countries differ in how agents attribute meaning to the burial solutions provided for. We see differences in the general tension involved with making collective demarcations (national traditions return in how they attributed meaning to the solutions provided for). But countries do not differ so much in what they de facto

institutionally do (to Muslims). This says something about the limitations of these standard pictures. Thus, I follow suggestions by Bowen and Maussen for more refined ones by formulating a more nuanced variable Ha2. But it also explains why these standard pictures exist at all: They have relevance as discursive narratives for scholars or high-level politicians, and lower-level administrators.

To circumvent this risk of reification, I suggest four methodological points; Scholars should take into consideration the level of municipal praxis (and be conscious of the layered nature of institutional regimes in general). They should pay attention to possible differences in the governance of different type of minorities. They should look at the material dimension of the solutions provided for as distinct from the discourse. And as a further corrective that discourse should be taken seriously, but not too seriously; scholars should direct their attention to the framing of the life-world and to their own scholarly framing.

This latter point brings us to the second contribution, which is of a conceptual nature: By interrogating the usage of secularism in the discourse of the different life-worlds, I show that secularism is not a substantive and action guiding value for burial agents in The Netherlands and Norway (unlike, for example, a value like equality, freedom, or respect). Neither is it a framework of reference (issue frame) or a sensibility to which burial agents can relate. Yet, it is all of that in the French context. Relying on an Asadian mode of analysis, we cannot account for such a finding because it lacks a coherent methodology for comparison. By distinguishing between ‘the strategy of actual deployment’ and ‘perceived deployment,’ I try to repair some of these shortcomings (Section 1.3.4). Still, I think that, at a metalevel, structuring one’s analysis in terms of the secular or comparative secularism, as is so fashionable today, risks misrepresenting and reifying the reasoning of the life-world. With this argument in mind, we contribute to the international discussion on the secular.

Before addressing the thesis structure, a few words on the theme of reification. This theme forms the bridge between these two main contributions. Underlying my argument of reification is a three-fold distinction of the role of models or categories: descriptive, discursive (normative), and explanatory. What often bedevils 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 into a single institutional ‘logic.’ Yet, agents in the field (or scholars for that matter) can also use models or concepts discursively. Then, they often have an explicit normative intent. After John Bowen (2007), we can refer to these two usages as: a ‘model of’ and a ‘model for.’ The first tries to describe or summarize a given reality; the second discursive usage intends to change social reality, not to merely describe it. Engaging with these discursive models (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. In that case, they are used as an independent variable or explanans to describe policy outcomes. This occurs most often in combination with other variables (e.g., Fetzer and Soper: 2005). This is the most challenging claim, because here one has to answer how the model and the elements that comprise it, lead to action.

When I make the argument of reification, this can refer to different scholarly situations. Its standard definition connotes “to make something abstract more concrete or real.” In particular, anthropologists are often concerned about showing what appears to us as one thing is in fact another. Yet, strangely enough, Asad’s anthropological study of secularism risks precisely this. Exactly because the governance of - in our case Muslim or humanist - burial needs depends in part on public framing, scholars need to work with a conceptual framework that is sufficiently open to the meaning giving process of the life-world. Yet, on this point Asad inspired scholarly proposals are remarkably under-theorized. My critique is, in its core then, not different from the concern with reification in the political science debate on national models (see Section 1.2).

Ultimately, I do not propose a one-size-fits-all solution. The line between descriptive, prescriptive, or explanatory purposes is only analytically sharp. But it would help if scholars were upfront about their own implicit normative

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41 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.
42 For example, in the Rana debate a stylized version of the French model laïcité is used to criticize the Norwegian reality.
43 I rely here on a distinction by Clifford Geertz, as does Bowen (2007, 1005).
44 A ‘model for’ is a normative model that is an ideological distortion of the social processes it purports to describe (Bowen: 2007, 1005).
45 For discussion, see Bader (2007b, 877). Models can also themselves be the object of explanation and investigation. They are the ‘dependent variable’ (explananda).
46 From the Oxford Dictionary. 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.
presuppositions. Scholars need not always align with the discursive framing of the life-world; there might be good scholarly reasons to give different names. Nor do I propose that we can avoid all normative connotations. All language implies some taking a stand. Yet, there can still there be better and worse terms. The general point is that scholarly naming and framing 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.

iv. Chapter Outline
The thesis contains three parts: theoretical and methodological considerations (Chapter 1), the empirical analysis (Chapters 2, 3, 4), and that of describing and explaining patterns in its empirical findings (Chapters 5, 6).

Chapter 1 discusses the leading theoretical approaches, outlining the contours of a multileveled discursive (‘religious’) governance approach. This chapter incorporates into Bader’s religious governance framework elements from two strands of actor institutionalism. And it incorporates a more methodologically “fit” version of Talal Asad’s anthropology of secularism. Chapter 2, 3, and 4 discuss the policy responses toward Muslims and humanists across states at three levels of society.

In Chapter 2 we look at the legal burial regimes and state-organized religion regimes and their historical genealogies. There are large differences between countries in the ways in which they give institutional form to religious diversity in the cemetery and their legal social imaginary of what a cemetery is. Furthermore, we ask whether the legal regulation of confessional sections and cemeteries fits expectations following the standard conceptions of state-church regimes (Ha1) in each country.

Chapter 3 investigates the relevant national policies and their historical idiosyncrasies. What do these different legal burial regimes, and state-church regimes as described in Chapter 2, amount to in the face of a common challenge today? How do they translate into national policies regarding Muslims and humanist burial needs? There are clear differences regarding the national policy responses to the demand for confessional sections and cemeteries for Muslims. Yet, these national differences

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47 See Bader (2007b, 877) on this point.
48 See for an anthropological definition, see http://www.anthrobase.com/Dic/eng/def/reification.htm Reification can also be understood as a form of generalization: “When we reify, we do not see the details, because they are overshadowed by the whole.” On that understanding any form of theoretical abstraction would be a form of reification. This is why I emphasize the notion of adequate reduction of complexity; thereafter we can discuss the criteria for adequacy.
become less clear when we include existing material provisions. This gives rise to
three sets of puzzles that the remaining chapters solve.49

Chapter 4 describes what the 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 that help resolve the puzzles highlighted in
Chapter 3. Remarkably, countries are even closer in their solutions chosen than
presumed. And, in relation to the French puzzle, it becomes evident that national
policies provide only a very partial answer to the question why so many carées exist.

The main topic of Chapters 5 and 6 is then to arrange all these empirical
finding across levels of governance and countries into patterns. Chapter 5 describes
and explains the municipal institutional pattern. Why do these countries do the same
thing in a material sense? Could we have expected these policy outcomes based on
our standard or the more nuanced state-church models? It tests the descriptive powers
of Ha1 and Ha2 as a ‘model of’ and concludes with three sets of reasons for
explaining this material similarity. Lastly, it discusses findings in light of our actor-
institution constellation chart (Sections 5.5 and 6.4). This makes tangible the
multiplicity of factors that have a bearing on the burial decision-maker.

Chapter 6 describes and explains the burial agent’s public reasoning. If our
legacies (Ha1, Ha2) do not well reflect themselves in material outcomes, as seen in
Chapter 5, might they have relevance for the agent’s discursive responses? We look at
how the elements of these models appear in the public reasoning of the burial agents
(‘model for’). Lastly, how is secularism used and argued for? Stretching the argument
as far as possible toward Asad, the last part of the chapter inquires whether there is
evidence for secular sensibilities. One unexpected finding surfaced: There was an
implicit binary, that of ‘wholeness versus fragmentation,’ rather than ‘secular versus
religious’ in the discourse of the agents. This could suggest, once more, how a
framing into secular sensibilities risks misunderstanding life world motivations.

Coming full circle with that latter argument (we opened and closed with
Asad), let us return to the question of (religious) minorities and Islam in Europe. Are
countries increasingly becoming the same in their policy toward newcomers? Or do
there remain national and path-dependent differences? This thesis provides an in-

49 Why so many carrés and Muslim cemeteries in France? How can laïcité explain the absence and
existence of both? For The Netherlands: Why is there only one Muslim cemetery? For Norway: Why is
there no Muslim cemetery and what explains the 1996 change?
depth answer to this question. Moreover, I show very clearly why studies on state responses to (new) diversity need to move from legal inventories of regulations to a multileveled analysis of rules and concrete material solutions provided for. Lastly, an international debate on the secular might benefit from the empirical findings from this study, namely, that scholarly terms can be out of sync with - or worse misrepresent - the language and concerns of the everyday professionals under study.
Chapter 1: Theoretical Frameworks of Religious Governance and Discursive Institutionalism

1.1 Introduction

This chapter discusses the main theoretical approaches of this thesis. As an introduction to the research design, it discusses the scholarly turn toward institutional regimes and discourse in the literature on the institutionalization of religious and cultural diversity (Section 1.2). Thereafter it outlines the contours of a multileveled discursive (religious) governance approach (Section 1.3).

This approach, used throughout the thesis, is based on the work of the sociologist and philosopher Veit Bader. His meta framework of religious governance - for my purpose specified as (religious) governance\(^{50}\) - 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 1.3.1). I supplement Bader’s framework with insights from two strands of actor-centered institutionalism (ACI): In line with Bader, Scharpf’s (ACI) emphasizes the relevance of a multiple actor- and process-orientated approach to institutional action (Section 1.3.2). Schmidt’s Discursive Institutionalism (DI) addresses the relationship between institutions and discourse/ideas for explaining institutional action and change (Section 1.3.3). That understanding of institutions as not just structures (contexts of meaning) but also ideational constructions, allows for a better understanding of a range of discursive similarities and differences that we encounter 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 1.3.4). By relying on the theoretical work of Talal Asad, I explore in the embedded case studies how ideas about secularism or secular sensibilities are relevant to a burial agent’s actions. This has initial appeal because of the discursive importance of laïcité for French burial agents. However, as previously mentioned (Section ii.), Asad’s framework proves hard to apply in a fieldwork setting. Thus, in

\(^{50}\) 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.
my preparation of the empirical analysis, I amend Asad’s theoretical proposal. I end by outlining the multiple embedded-case design and qualitative methods as suitable means for exploring the theoretical issues (Section 1.4), before concluding (Section 1.5).

1.2 State of the Art: State Accommodation of Cultural and Religious 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 (Koenig: 2009, 305). Scholarship centering on the various actors involved asks, for example, whether the most religiously diverse countries also have the most open cultural policy (Koenig: 2009, 306). Alternatively, actors (e.g., migrants) own socioeconomic, educational, and religious status plays a role. Scholars investigate the internal organizational structure of, for example, Muslims as affecting the provision of services for new migrants.\(^{51}\) Or they show that the transnational mode of religious belonging of migrants bear on how they organize, make claims, and ultimately settle.\(^{52}\)

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. Catholic countries in turn fall in the range of low-to-moderate levels.

Political scientists, however, have been much concerned with structural and institutional factors (e.g., Koopmans and Statham: 2000). When transposed to the study of Islam in Western Europe, a shift can be observed from research looking at

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\(^{51}\) This can involve ethnic composition, financial resources, or ideological characteristics of different Muslim communities. See, for example, Kniss and Rumerich: 2007; Davis and Robinson: 2001.

the internal organizational structure of Muslims and their religiosity, to research that focuses on the external opportunity structure (cf. Bader: 2007b, 872). A range of work shows how: “societies create opportunities for the development of Islam, or oppose them” (Buijs and Rath: 2002, 9). A certain political climate, a set of laws or social conditions affect the ways in which minorities frame their demands and whether they, say, emphasize equal or exceptional treatment (cf. Rath et al.: 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 state-church relations (Maussen: 2009, 19). Because the presence of Islam in Europe results 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 Fetzer and Soper’s study (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. And this factor can better account for variation than the political resources of the Muslim communities, the general political opportunity structures, or the states’ political (ideology) 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 (Furseth: 2003; Beckford: 2005).

Fetzer and Soper’s argument has led to continued debate. Critique, or complementary analysis, is leveled at it in two ways: Are other factors not more relevant for explaining variation in accommodation policies? Here scholars typically

54 They refer to the Anglican establishment, French Laïcité, and the German Staatkirchenrecht.
55 Beckford (2005) investigates this role in France and Britain; Beckford and Gilliat do so for Britain (1998). Inger 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 and the extent to which there is facilitation and brokerage going on by Norwegian Lutheran military and prison chaplains. She finds “no signs that there is a withdrawal of the Church's formal functions” (p. 197). And the military and the prison chaplains play crucial roles as facilitators and mediators on behalf of other faith communities. Yet, in her analysis, these findings are not interpreted with the aim of finding specific institutional templates or state-organized religion scripts. Rather, she relates them to a question about secularization (specified as increasing privatization and decline) and concludes the continuing intertwining between religion to be a structural facet of social life and the Norwegian state.
ask about convergence or remaining differences. And 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. Relying on a tripartite typology of state-church regimes into ‘established,’ ‘partial established,’ and ‘separated,’ he finds Fetzer and 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 finds more consequential. Koenig (2007) interrogates the national model of religious government from a transnational perspective. To what extent does a postnational or multicultural social 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.

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 oversimplistic institutional accounts. One reason why Minkenberg, in the study above, finds little effect of state-church regimes might be that his typology is too simplistic (established, partial established, and separated). So, along this line of argument scholars seek to revise and nuance their conception of the national model. In my overview, I highlight three insights from this literature that inform my own approach.


58 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); secondly 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 and Cann: 1992). The latter is measured by the degree of deregulation of churches in financial, political, and legal respects. 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 relying on Koopman et al.: 2005.

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

60 For special issues on this theme, see Journal of Ethnic and Migration Studies Vol. 33, No. 6, August 2007; ‘The Heuristic Potential of Models of Citizenship and Immigrant Integration Reviewed,’ Ed.
One important problem with the fixation on national models is 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 and Duyvendak: 2012, 240) can falsely suggest that the ideology of pillarization or establishment is the direct driver of action. This mistakes the model for being this homogeneous ‘thing’ driving individual and collective behaviors. It confuses descriptive, stylized models with explanatory factors. And how to explain institutional change?  

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 and regarding different policy domains as is argued by Maussen (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’ regulate the financing of the house of worship. Furthermore, the elements of the model can apply differently to Islam than other religious minorities.  

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 and Duyvendak: 2012, 241). Yet, Bader (2007b, 880) too predicts it:

The gap between predominant normative models of appropriate institutions and policies and

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61 How can one explain changes in public policies in reference to the same model?  
62 Maussen’s study shows how, in the French governance of Muslims, Islam obtains a status aparte compared to other religious minorities. And this is largely the result of particular colonial legacies. The Gallican and Concorditarian traditions were crucial for the governance of Islam in Algerian and West Africa, sideling a stricter separation tradition. The Dutch, however, did not draw upon their colonial policies for the governance of Islam. For a more detailed discussion, see Maussen (2009, 253).  
‘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.

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 are seen as 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,64 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 a frame of reference that can be appropriated in different ways (it is multiinterpretable).

This discursive turn has furthermore highlighted the need for a scholarly distinction between different usages of the model. As discussed (Section iii.), John Bowen distinguishes between a state-church model as a ‘model of’ and ‘model for.’ The former describes a given reality, i.e., it is a descriptive analytic tool. The latter is a discursive resource used for specific purposes. Keeping these functions of the model separate in scholarly analyses (we could in fact add a third, explanatory function) helps us to resist the temptation to reify country specific regimes into stereotypes.65

In summary, I use the above-mentioned insights as steppingstones for my own approach. I pay attention in my conceptualization of what happens to Muslim and humanist burial needs by looking at (1) internal complexities and possible historical

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64 He adds the ‘associational’ and ‘Gallican’ element to the French model. See the discussion in Section 2.3.1.
65 It avoids explaining everything the French do with laïcité, even if the French do this themselves.
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 by which actors make sense of the issue. These insights form the input for a ‘multileveled, discursive (religious) governance approach’ developed in the next section. Second, they inform the working conception of a heterogeneous state-church regime (Ha2) discussed in Section 1.4.

1.3 Outlines of a Multileveled, Discursive (Religious) Governance Approach

1.3.1 Explaining the Meta level Framework of (Religious) Governance

In response to the range of potentially relevant factors discussed above, the sociologist and philosopher Veit Bader answers with a metaframework of religious governance. His intent is to bridge the various forms of scholarship and to incorporate 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, 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 (Treib et al. 2005: 4). Veit Bader is the first to apply the concept of governance to the study of religion and Islam (2007a, 2007b, 2009a). He refers to religious governance as a pretheoretical framework that has the aim of providing for an adequate conceptual mapping of the research field of religion, Islam, or migrants. Second, 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 broader than government. Studies of government focus on the action of one actor (the state) and on action coordinated by

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

67 See also Maussen (2007, 2009). Bader (2012c) also applies it to the study of transnational migration and the colonial and post-colonial governance of Islam (Maussen, Bader and Moors (ed.): 2011).
means of formal rules (law or public regulations). A focus on governance includes more actors and other forms or regulation, like soft pressures, condoning, incentives, etc. Yet, religious governance is narrower because it includes only intentional capacities to regulate; markets are not part of its focus as a relevant mechanism for action coordination. 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. But institutions also shape their actions and claim-making in turn. Bader thus relies on an actor-centered institutionalism. (We shall return to this theme.) External factors can include a wide set of regulations as discussed: laws or law-like rules but also 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 top-down enforced 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 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 (Maussen and Bader: 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 (see discussion in Bader: 2014, 3).

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68 For example, Treib et al. (2005) distinguish between conceptions of governance encompassing institutional features (the polity), actor constellations (politics), and policy instruments (policy). And they distinguish four modes of governance in the policy dimension: coercion, voluntarism, targeting, and framework. These four types derive from two dimensions: the type of instrument applied (legally binding versus soft law) and the quality of implementation (rigid or flexible).

69 This is my interpretation.
The governance perspective is multi-actor centered as opposed to state centered. It focuses on processes and potential shifts in policy paradigms. This way one avoids historically static models or fixed normative templates for the regulation of religious diversity. Last, it leaves room for a wide range of factors (the state and its formal institutions) to come into the analytic gaze of what happens to religion or Islam.

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

1.3.2 Integrating Elements of an Actor-Centered Institutionalism

A few elements in Bader’s framework invite further investigation. Bader emphasizes the dynamic interaction between actors’ claim-making and existing institutions. A similar idea is central to the actor-centered institutionalism (ACI) developed by Fritz Scharpf and Renate Mayntz. In this approach, 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 (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, I adapt, in line with ACI, a similar backward-oriented reasoning approach. The central unit of analysis for their approach is the interactions that eventually lead to a policy outcome.

70 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 (see Kersbergen and Waarden: 2004).
This allows in the next instance for the identification of the relevant actors “whose choices ultimately will determine the outcome” (Scharpf: 1997, 43). Within actor-centered institutionalism, the observable behavior by actors counts as the ‘proximate’ cause, whereas the institutional context is seen as constituting a ‘remote’ cause (Mayntz and Scharpf: 1995, 46-47). In line with ACI, I start from an observed policy outcome and reason backwards to what the causes were for that particular policy outcome. Like Scharpf, I give analytic emphasis to the potential multiplicity of actors involved. Yet, in most of the municipal case studies, there were just one or two relevant agents.  

Furthermore, Scharpf has a different institutional orientation. Ideas and discourse do not play an explicit role in Scharpf’s account. For this I turn to Vivian Schmidt’s so-called discursive institutionalism.

1.3.3 Discursive Institutionalism: How Ideas and Discourse Matter

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

71 This can be the municipality, the joint parish council, or the board of a private graveyard.
72 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.”
73 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 behaviorism in the 1960s and 1970s (Hall and Taylor: 1996). The latter explained political phenomenon as the outcome of the behavior of (rational) individuals or explain politics merely as the outcome of group conflict (the sum aggregate of individual behavior).
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 frames. According to Schmidt (2008, 313), these schools rightly brought back institution 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? (2008, 314)

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 her framework is not explaining institutional change. But Schmidt offers a useful way of conceptualizing institutional action that, like Scharpf and Bader, takes agency and institutional embeddedness seriously. Yet, she 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 into causes (at least 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 with regard to relevant institutions or broader cultural meaning structures.

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. Her notion of ‘background ability’ emphasizes knowhow and predispositions rather than a conscious engagement with these constitutive rules or norms.

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74 I rely in this discussion on her succinct summary (2010, 2).
75 Why do they juggle with words in France, talk about money in The Netherlands and about consecration in Norway?
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)

She refers to what Searle (1995) defines as background abilities, “human capacities, dispositions, and knowhow related to how the world works and how to cope with it” (Schmidt: 2010, 14). Or, referring to Bourdieu (1990, 11), the habitus in which human beings act, “following the intuitions of a logic of practice.” Likewise, the psychology of cognitive dissonance 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). But they enter as the very means by which meaning is attributed to the situation.76 (I call this the ‘issue frame.’) But, as said, for Schmidt institutions are also ideational constructs and thereby contingent outcomes of the agent’s thoughts and interpretation. The reinterpretation of an institutional element/code 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 this section, 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 frames through which agents make sense of a situation. Over time these institutional frames 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.

76 There is a close affinity between SI and DI.
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 or norms). This discursive ability allows them to change their own ideas and communicate these to others. They can thereby alter an institution collectively.

Schmidt’s distinction between ideas and meaning context is useful for the purpose of this thesis. The latter refers to the (institutional/structural/cultural) frame in which ideas are giving meaning. This distinction allows me to separate, in a more fine-grained manner, how differently and how similarly these countries respond to similar burial demands. 77 Furthermore, my analysis confirms the idea that institutional action is (at least) initially rather 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, regardless of the specific ontological position on the relationship between ideas, agent, and institution 78, 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 level of the European Union). On the other hand, I am concerned with institutional action rather than change and with policy application rather than policy-making. 79 Furthermore, in her 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

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77 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.

78 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 or debate about agency versus structure, here.

79 This is similar to Lipsky’s (1980) study. It looks how public policy is “made” in the everyday by street level bureaucrats. Yet, I do not focus on one group of professionals.
France. 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 Vivian Schmidt’s distinction between levels of ideas. I distinguish between (1) explicit ideas mentioned for guiding action, (2) issue frames, (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 thoughts. Here, I follow closely the language used by the respondents. ‘Issue frames’ refer to the larger meaning context in which agents situate these ideas. These can be relevant institutions, relevant public discourses or other sources of authority. What do the respondents understand this to be an issue about? Here, I interpret (as a scholar) 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 legitimation 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 they were at the same time deeply committed to avoid a certain institutional solution.

By 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 she provides a similar institutional argument (‘issue frame’) or expresses similar cultural ‘sensibilities’ another agent would name ‘laic.’ Yet, as I will argue, this then requires

80 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.
81 She distinguishes three levels of ideas: ‘policy,’ ‘program,’ and ‘public philosophy.’
82 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.”
an explicit justification and strategy of ‘perceived deployment’ on the part of the scholar.

In making the transition to the next section on Talal 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 frame’ and that of a ‘sensibility’? I cannot provide hard-drawn lines here. But with sensibilities I tried to get at even more implicit incentives for action. They come through in the discourse because of the usage of certain words (‘whole,’ ‘fragmentation,’ ‘patch blanket,’ ‘ghetto’), or underlying metaphors (‘lying in the bed,’ ‘coming home’). But respondents are not conscious about this. In the two examples that I discuss (Section 6.6.1), 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 frame’) 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 6, the fact 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 compris (the ‘issue frame’). Yet, as I point out to him, in laïc Switzerland private cemeteries are in fact 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 an understanding of the underlying sensibility - a deep distrust of religious communities. Moreover, he does not like visible group distinctions in public.
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 potential 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. Because that 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.” 83 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 secularism’s vices, although he most certainly does so in a variety of publications. 84 Neither 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). Asad’s interest is however comparative:

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84 Examples are Asad: 2006b, 2007.
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.85

This passage is important to note since it shows that failure to provide for a coherent comparative research methodology is not part of an external critique but comes 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?” 86 Of interest to Asad is the force that the concept of secularism has, 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.87 And he provides inspiration for a range of ethnographic studies that seek to critique notions of agency and selfhood derived from liberalism, through a study of Muslims’ ethical formation.88

Yet scholars have noted a range of problems with Asad’s approach.89 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.”90 And, yet, he provides for descriptions of agency, pain, and torture in relation to embodiment as “explorations of the secular.”91 That means that Asad must hold on to something secular, otherwise he could not be talking about any particular secular

85 Asad: 2003, 17.
86 Asad: 2003, 201.
89 This not only reinforces the dichotomies between secular-religious, modern versus un-modern 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 and Mandair: 2011.
90 Asad: 2006a, 228.
91 Asad: 2003,16.
sensibilities. Relatedly, it is unclear how his approach to secularism can be 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.”92 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 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 series of inquiries of what “we have come to call the secular” (my italics). 93 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 compares is variations of the same idea that the scholar perceives as being about the secular: the strategy of perceived deployment. Jumping ahead of the discussion in Chapter 6: In France, public agents indeed actively deploy terms like laïcité to argue for certain institutional solutions over others. 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.’94 The public agents involved do not understand this

92 Sartori: 2009a, 15.
93 Asad: 2003, 25. He says to draw on material from West European history.
94 See the discursive chart at the end of Section 6.2 under ‘central ideas mentioned,’ Støren case study.
matter as being anything about secularism. In fact, some of them see their solutions and underlying reasoning as “actually not secular thinking at all.” So, how do we decide whether a set of actions 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’?”

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 are nevertheless referring to the concept of secularism. But that presupposes a theory of religion on my part (equating Islamic burial practices with religion). Second, to avoid finding out 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 side 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 a second-order 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

95 Interview churchwarden in Støren, 18 October 2013.
96 Asad: 2003, 8.
through the concepts the people concerned actually use." Lastly, it reifies: Asad makes it about the secular without explicitly justifying why it 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. Still, as a postmodern anthropologist, I think that he wants his framework to have empirical relevance. As he tells us as much:

> 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 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 is then maybe: How to make this agenda more empirically sensitive? I address two interesting proposals that partly achieve this. But they ultimately do not resolve Asad’s main methodological problem.

In summary, Dressler and Mandair (2011) 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 (…)” (p. 21). Much in the spirit of this thesis, 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 of religion-making: ‘from above,’ in cases when religion becomes an instrument of power from above;

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97 Asad: 2007, 44.
98 “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, however, asks this question as a sociologist. How do ‘ordinary people,’ he asks, experience being secular? (Casanova: 2009, 1052). And how does their ‘phenomenological secularism’ (the lived experience of being secular) relate to the secularist assumptions inherent in ‘philosophico-historical’ or ‘political secularism’? For reasons of space, I had to omit a discussion of his work.
99 See the interview with Talal Asad ‘Modern Power and the Reconfiguration of Religious Traditions’ by Saba Mahmood at http://web.stanford.edu/group/SHR/5-1/text/asad.html
‘religion-making from below,’ when particular social groups in a subordinate position draw on a religionist discourse to establish or reestablish their identities. And finally, they discern ‘religion-making from (a pretended) outside.’ The latter 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 the 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 Elisabeth Shakman Hurd (2015), to move “beyond religion,” introduces three similar yet slightly different heuristics. These are ‘governed religion,’ ‘expert religion,’ and ‘lived religion.’ Expert religion is “religion as construed by those who generate ‘policy-relevant’ knowledge” (p. 8). Lived religion is “practiced by everyday individuals and groups as they interact with a variety of religious authorities, rituals, texts and institutions.” Governed religion she sees as “construed by those in positions of political and religious power.”100

For Hurd (2015, 13), “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.” 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 life-worlds that otherwise tend to fall between the cracks, “because when scholars and practitioners look for religion they seek out religious leaders and institutions, recognizable texts and defined orthodoxies, and religious authorities in fancy robes and impressive hats” (pp. 13f.).

Hurd’s interest is not the governance of religion, “how that which is identified as religion becomes subject to particular forms of governance.” Rather, it lies in how these forms of law and governance, “once established,” relate to the broader political, social, and religious life-worlds with which they interact (p. 11). In other words, she focuses on the prior process of categorization, namely, the decision what falls within

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100 E.g., state courts but also NGO’s, churches, and religious organizations.
or outside the categories of religion in law and politics, and the effect of that exclusion on the life-world under investigation.

A few features make this an attractive approach. It can do better justice than Asad’s largely Western secular, 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 life-world, it becomes obvious that all engage in their own way in constructions (although, remarkably, she does not call her life-world’s ‘lived religion’ a construction). Second, it shows that those constructions have real-life consequences and affect each other. The way in which official representatives and public agents represent religion and what gets done to it, effect how experts theorize about it and vice versa. (This resembles in our discussion to 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 life-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 life 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 life-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 all that Muslims say just instances of lived religion - or only when they identify themselves as religious? And what does that 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, it disqualifies them?

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 life-world. They pretend that they can stand (neutrally?) on the sideline, 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. As she tells us so:

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. (p. 11)

And here both Hurd’s as well as Dressler and Mandair’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. It 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 can be good scholarly reasons to work with well-delineated categories. Relatedly, there is an underlying normative presupposition that categorization by a category like ‘religion’ is always suspicious. It is absolutely necessary to study cases 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 (Mandair/Dressler and Hurd’s) conceptual universes, secularism is always implied. As soon as something is construed as religion, we 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, 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."\textsuperscript{101} While from a theoretical perspective this looks like a benign matter, it matters 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 the range of studies on ‘lived religion.’ My point 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 6.6.1- 6.6.3.

1.4 Methods: A Multiple Embedded Case-Study Design

Apart from these discourse analytic concerns, the study is designed according to a comparative method and ‘multiple-case embedded design’ (Yin: 2014, 50). 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 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 one ideal-type in a standard tripartite typology.\textsuperscript{102} France is ‘separatist.’ Norway has an ‘established national church’ (until 2012), and The Netherlands is a ‘selective cooperation country.’

The central unit of analysis for this study is the interactions that lead to a burial policy outcome. I study this burial outcome and related process in three national contexts and nine embedded cases (three in each country). The nine embedded cases are chosen on a literal replication logic. They include the processes occurring in two cities in each country (the capital and one other nearby city) with a

\textsuperscript{101} For a similar point, see Casanova: “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” (2006c, 21).

\textsuperscript{102} Established typologies distinguish between established and nonestablished states and within the latter category between separationist and selective cooperation countries. France is separationist, and The Netherlands selectively cooperates with selected religious bodies (Robbers: 1996; Ferrari: 2002).
significant and growing Muslim population. I inquire whether there is similarity among the two cities and in comparison to the national legal prescription. The two cities are chosen with the expectation that they give similar results. The third embedded case is chosen to investigate a more country-specific presumption that has a bearing on our general question (if and why there is variation between or within countries in the burial outcome and related processes). In The Netherlands, the city of Almere serves to investigate the observed discrepancy between legal possibility of confessional cemeteries and the near absence of Islamic cemeteries. By investigating this ‘unusual case’ we learn about the conditions of its success. Furthermore, it engages one rival explanation for variation: the role of Muslims themselves in the process. In Norway, the first pilot study of Oslo indicated that joint parish councils in Norway are largely the initiators. The role of Muslim themselves is small. Thus, the case studies of Elverum and Støren serve to investigate another possible reason for variation that is size of the municipality and the degree of rurality. Oslo, Elverum, and Støren are equal in the sense that a liberal folk church is influential. Yet, they differ in degree of rurality. The expectation is for contrasting results, but for anticipated reasons (thus constituting a theoretical replication (see Yin: 2014, 57). Elverum is a rural middle large town, Støren an even smaller town. The choice for the third case in France, Lyon, is that of a southern city known for its large Muslim population and the very active Islamic political environment (and tensed ethnic relations). This can shed light on the role of Muslims themselves.

Different from a sampling logic, the embedded cases were not chosen to represent the entire population of municipalities in these countries. Nor do they indicate the prevalence of a phenomenon, which would require many more cases studies - an impossible task for a dissertation. Rather, the aim is theory development. Furthermore, the study aims to be a qualitative one that, among other

103 This includes Amsterdam and The Hague, Montreuil and Paris, Oslo and originally Lørenskog. Yet, the latter has been omitted for lack of sufficiently qualified data.
104 I thank Dag Thorildsen for pointing out this common ‘liberal folkekirkelighet’ and thinking through the rationale of choosing the Støren case study.
105 The degree of rurality is of course not so easy to determine. Elverum lies on the eastern inlands of Norway, and, although considered as ‘rural’ by its leadership, it is still relatively large and one of the centers in the Mjøsa area (Norway’s largest inner lake). Støren is a very small town on the northern coast of Norway half an hour away from Trondheim by train.
106 I thank Jytte Klaussen for bringing this city as a relevant case to my attention (private conversation Stanford, June 2008, SIAS summer institute).
107 Case studies are generalizable to theoretical propositions, but not to populations. The goal is not to extrapolate probabilities (statistical generalizations) but to expand and generalize theories (analytic
things, describes and understands whether (and how) a national state-organized religion repertoire plays a role in the processes leading to these burial outcomes.

My study follows a case-study method, but it can be called ethnographic along five dimensions as outlined by Hammersley and Atkinson (2007, 3). It involves, first, a study of people’s actions and accounts in the field. Second, it combines a range of sources. Basically, I used anything I could get my hands on; this is further specified below. Third, categories for interpretation are not a priori set through questionnaires or observation schedules, yet they follow the process of data analysis. Fourth, there is an in-depth look at a few cases. Last, 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.

Clarification of Terms

In the project 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. 108 In the French context, I have translated *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 José Casanova 2007 109 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 thesis I am primarily interested in agents’ institutional and normative reasoning, what could (but maybe should not) be called secularism. Furthermore, like Taylor and Asad I touch upon the notion of

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108 I thank Joe Smith for bringing this to my attention.
‘sensibilities,’ what could (but maybe should not) be called secular sensibilities (see Section 1.3.3).

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 does not denote conflicts between the laws or a group’s self-definition as ‘religious’ or that of other relevant decision-makers/agents. This stands opposite to, for example, Sullivan’s study (2005). Yet, where prevalent, I register disagreement over naming. 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 insofar as it clarifies the intention of the laws or authors (who use these terms themselves); or when it is simply better English.

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

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110 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 for private cemeteries is secured for each registered religious community (trossamfunn). 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 of organized religion (les cultes) is limited to the domains of celebration (the mass), its buildings, and its teaching (Bowen: 2007, 17) Confessional cemeteries/sections are beyond its purview.

111 This study looks at 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.

112 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, not considered Muslims.

113 In Dutch, humanists are referred to as a levensbeschouwelijke groepering (group with an ethical worldview) as opposed to kerkelijke gezindte (churchly community). In Norwegian, they are a livsynssamfunn (life-stance community) as opposed to a trossamfunn (faith community). In French, the relevant legal criteria runs 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).
to a public debate in which these terms are used. 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.’115 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.116 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. 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) (Ferrari 2002). Here the focus lies on the formal

114 For a valid criticism of ‘integration’ as an etic terminology, see McPherson (2010).
115 I thank Joe Smith for making me aware of this connotation in English.
116 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.
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 (Monsma and Soper: 1997, 156). In this view, the model extends to encompass ideas, governing traditions, and policy legacies (see Fetzer and 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’ (Statham et al. 2005), or Norway is ‘established.’ I address these standard typologies in the project as Ha1. 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 that are 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 dissertation. I must limit such a discussion and rely in my account of France and The Netherlands on the typologies of Maussen and Bowen. Only for Norway do I actively add an element to the existing typology of ‘establishment,’ that of (municipal) des-establishment schemes (Breemer: 2014). This means that my conceptualization of state-organized religion regime here becomes both that of an independent and a dependent variable. ¹¹⁷

In this project I use (normative) principles, scripts, or schemes interchangeably. Bowen defines schemes as “categories, images, propositions often

¹¹⁷ 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?
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). In chapter 2 I return to a specific discussion of these scripts/schemes in Ha2, placing them within a historical context for each country.

The construct validity of the research design is secured by relying on multiple sources of evidence and, where possible, by letting key informants review the draft of the case study. A replication logic in the choice for the multiple embedded case studies aims to secure external validity. In each national case, I look at two cities that share some of the central relevant features. To secure the internal validity, some of our embedded cases studies were chosen according to a theoretical replication logic, which allows me to investigate more specific theoretical propositions and the role of alternative factors. In order to avoid finding only what I am looking for (the relevance of a regime of religious governance/secularism), I have addressed rival explanations, albeit with some notable limitations.

The data consists of 35 interviews: recorded and unrecorded ones. These are qualitative, semistructured interviews with open-ended questions. The data were collected during two rounds of fieldwork, via email correspondence or phone conversations. The aim was to collect as varied information as possible. Further

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118 Changes in policy on his approach can be explained by the fact that public agents draw on several working schemes, while weighing and balancing these schemes differently. The schemes are thus relatively stable, yet the weighing between them differs from time to time or from issue to issue.

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

120 External validity: can the findings can be generalized to the world at large? Internal validity refers to the extent to which we can be sure that alternative factors are not causing the outcomes.

121 They are similar because they reveal the presence of large or growing Muslim population and lie in the nation’s capital or a nearby city. For Norway, this included the municipality of Lørenskog, which neighbors Oslo. Yet, for reasons of space and lack of good interview material, I removed that discussion.

122 These rival explanations included the role and mobilization of Muslims themselves, the role of individual state and nonstate actors and in the Norwegian context, with the degree of rurality affecting the solutions chosen. One limitation lies in the lack of a historical discussion of integration policies for all countries. Such a discussion was omitted for two reasons: first, feasibility and, second, integration regulations do not typically address the topic of cemeteries (exceptions being Amsterdam and Elverum).

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123 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.

124 The first round of fieldwork took place under the heading of the New School University and with 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 TF, Fondation de Maison des Science de l’Homme (FMSH) and the Norwegian research Council (NFR).
sources of evidence include public documentation, archival records, and participant observation. For nearly every embedded case study, I visited the cemetery and office of the respective responsible administrator. In some contexts, there was no official documentation, whereas in others the contexts produced a rich set of data. This varied outcome was often telling in and of itself. 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) all relevant lawmakers/jurists or public officials engaged in the law-making process; (2) decision-makers at the municipal level; (3) relevant Islamic or humanistic representatives involved. (4) I talked with a set of nonstate actors involved in the work directly related to the graveyard: burial undertakers, ceremonial leaders, or, where relevant, very knowledgeable burial amateurs.

Each interview follows a rough protocol. A set of general themes is discussed, but their order and form are random and adapt to the participant’s knowledge. Participants are allowed to speak in their own words, and I adjust as much as possible to the conversational style of the respondent. This serves a nondirective and two-way interaction (Yin: 2011, 134; Brenner: 2006). I avoid as much as possible reference to terms like secularism or religious governance, to reduce bias. The narrative data from the recorded interviews were partly transcribed, including only relevant passages.

1.5 Conclusion

This chapter has outlined the contours of a multileveled discursive (religious) governance approach that serves as the theoretical framework of this thesis. Building on the work of sociologist and philosopher Veit Bader, I have supplemented Bader’s...
framework of religious governance with insights of two types of actor institutionalism: that of Fritz Scharpf (ACI) and of Vivien 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 project’s basic unit of analysis 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. 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 frames, (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 Talal Asad, in the second part of the chapter, extends the discourse analytic focus of the thesis. Furthermore, it investigates 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 Michel 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 1.3.4) 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. 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 life-world understandings. 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 Hurd and Mandair/Dressler 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 multi-embedded case study design as the best method for addressing these theoretical issues above.

128 The fact that terms arise from one cultural context does not mean that, when minimally defined, they cannot capture relevant similarities and difference elsewhere as well. Bader relies on a form of minimal universalism. We might not know what ‘freedom’ means, differing from context to context, but we could agree 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 (Bader & Sawaharto: 2004, 110).

129 This holds, of course, insofar as engaging the life world or experience of ordinary citizens is part of their research objective.
Chapter 2: Legal Burial Regimes, State-Organized Religion Regimes, and Their Historical Genealogy

2.1 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. This investigation lays the groundwork for the analysis of contemporary responses to ‘new’ diversity in Chapters 3 and 4.

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.

For each country, three sets of questions are important: (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? (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 (2.2). Moreover, the chapter ends with a general history of each country’s state-church relationship (2.3). The latter serves to provide

\[^{130}\text{I base my reading of these legal texts on interviews, public documents, and secondary literature. Questions A and B are discussed in Chapter 2.1.}\]
the reader with an even broader understanding of the historically formative moments of these countries for the discussion of burial practices in later chapters. And, as a continuation of the theory Chapter (1.4), it allows me to substantiate the choice of the schemas hypothesized under Ha2 (see 0.2). The chapter concludes (2.4) with a summary of the legal burial outcomes in each country (A, B, C).

2.1.1 The French Cemetery

France regulates its burial concerns in a collection of articles in the so-called General Code of Autonomous Regions, which is applied at the municipal, intermunicipal, departmental, and regional level. The cemetery is considered an ouvrage public, a ‘public work,’ which is “public, mandatory, and laic.” As a result 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). The Napoleonic Decree thus ‘municipalized’ but did not completely ‘deconfessionalize’ cemeteries. Confessional sections in fact were prohibited only in 1881. Today, municipal cemeteries fall under the authority and the supervision of the mayor, and their upkeep falls within the municipal budget (L2213-10). Exceptions may be found in a handful of old confessional cemeteries dating from the period before the Napoleonic Decree (1804). They exist under private ownership or have been made part of a communal or intercommunal cemetery. These confessional cemeteries cannot be enlarged. Furthermore, three departments in the region 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

131 Code Général des Collectivités Territoriales (CGCT).
132 Articles in the ‘Code Civil’ and the ‘Code Penal’ also apply to this domain, in addition to nationally ordained laws, the latest being law N 2008-1350 of 19 December 2008.
133 Seur Lecerf 2006: 19
134 The 1881 law is referred to as ‘the law on the neutrality of the cemeteries’: loi sur la neutralité des cimetières.
135 A decree from February 10, 1806, allowed Jewish communities to maintain their confessional cemeteries. Likewise, some Protestant cemeteries exist under a private construction.
municipalities where there is a plurality of confessional groups, each can have its own cemetery or reserve parts of a municipal cemetery (Article L.2542-12). 136

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). 137 Everyone has the right to burial, as municipalities provide for a free grave for 5 years.

The French cemetery is considered laic because a 1905 law 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 L2213-9). 138 A law from November 15, 1887 139, 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.’140 Violations of the will of the deceased or the deceased person’s family are sanctioned by the Penal Code. 141 This in turn is unknown in Dutch and Norwegian burial regulations.

In terms of the main (normative) considerations 142, the will of the deceased is of highest importance in French law, securing individual freedom of conscience, Art. L2213-13. Second, the local mayor is supposed to remain entirely neutral, Art. L2213-9. The motivation for these articles has its roots in 19th-century idea of

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137 The latter option has been abolished in most municipalities (Art. L2223-14).
138 The regulation of burials and cemeteries is described in Section 2 of ‘Police des funérailles et des lieux de sepulture’ and falls under the responsibility of the police and the mayor. This is again a sub Section of the legislative rules concerning the administration of the municipality as prescribed in the general CGCT. The April 5, 1884, law is applicable to the organizational structures of the municipality: Loi du 5 avril 1884 relative à l’organisation municipal.
139 Loi du 15 novembre 1887 sur la liberté des funérailles (Art. 3).
140 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 (Art. L2213-11). No prescriptions can be made with regard to the burial process, “whether of a civil or religious nature” (Art. L2213-13).
141 Code pénal Articles 433-21-1 and 433-22.
142 This broadly reflects the normative concerns that characterize the burial legislation. There are obviously many other various normative (and practical) concerns that differ depending on the context.
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 disbelieve.”

2.1.2 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. Since 1827, each municipality has had to provide for a municipal graveyard, or to share one with a neighboring municipality (Wlb, Art. 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). Family graves on private property used to be possible, but this option has since been legally abolished.

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. ‘Special’ cemeteries operate independently of municipal interference and

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144 https://wetten.overheid.nl/BWBR0005009/2009-01-01
145 Informal estimates speak of 1,487 municipal and 2,733 confessional cemeteries, 267 of which are Jewish. I thank Leo 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 related to crematoria and burial.
146 It is still possible to construct a special cemetery on one’s own property with permission from the municipal board and after consultation with the regional inspector of Public Health and Environmental Hygiene.
147 The mayor, however, remains, among others, responsible for providing the possibility of autopsy (Art. 4), decisions regarding the request to bury or cremate before 36 hours of death (the legally
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, with regards a minimal burial period of 10 year, and the extension or creation of special graveyards (Article 40.1)\textsuperscript{148}

Also, quite unlike the French situation, religious communities (erkgenootschap) 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 (Article 38). The confessional group buys the land\textsuperscript{149} 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 its 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, but 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, albeit not for profit (gemeentelijk verzelfstandigd), or (c) a private ‘for profit’ company (gemeentelijk uitbesteed).\textsuperscript{150} 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.\textsuperscript{151} 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 to each church community a confessional section within a municipal cemetery, if the church

\textsuperscript{148} The mayor and city council determine the measures for making the soil suitable for cemetery construction (Art 40.2).
\textsuperscript{149} Municipalities are encouraged to transfer the ownership of the land to that of the church community “under reasonable conditions” (Art 40. 4), though this is not always possible.
\textsuperscript{150} In the case of (a), municipal regulations apply (B&W Mayor and city council). 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 Leo Bok, 25 March 2009, and legal burial advisor, 10 August 2012.
\textsuperscript{151} The municipality sometimes buys that parcel from the church community.
community itself did not possess a cemetery of its own\textsuperscript{152} (Hoog: 1870 xxvii). This legal right is currently expressed in 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 (see Chapter 4).

Finally, there is a range of options in types of graves. A grave with an ‘exclusive right’ (uitsluitend recht) is bought for a minimum of 20 years, though it can be extended over time and allows for family regroupings since the holders of the grave rights may choose the location (Article 28). ‘Common graves’ (algemeen graf) have a grave rest time of 10 years; family groupings are not possible.\textsuperscript{153} 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.\textsuperscript{154} 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 (…)” (Art 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.\textsuperscript{155} And it is constrained by equal treatment among groups (Article 38, lid 2).

2.1.3 The Norwegian Cemetery

\textsuperscript{152} Art. 19 in the Dutch 1869 burial law.
\textsuperscript{153} 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.
\textsuperscript{154} For Dutch professionals, securing a dignified burial entails “respecting the life convictions or religious affiliation of the deceased.” (Harmsen: 2007, 13).
\textsuperscript{155} The state does not provide direct support for church communities, although the Wlb does encourage transfer of land to ‘church communities’ (kerkgenootschappen) “under reasonable conditions” (Art 40.4).
A look at Norway reveals two primary laws governing the burial domain. First, there is the 1996 funeral act ‘Gravferdsloven’ (Lov om gravplasser, kremasjon og gravferd) and the 1996 Church of Norway Act ‘kirkeloven’ (Lov om Den norske kirke). 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 altered since January 2012.

Norwegian cemeteries come in two forms, public or private. Burial can take place in a public cemetery (offentlig gravplass) or in a cemetery as constructed by a ‘registered community of believers.’ It is also possible to construct a family grave plot in a private cemetery, with permission from the ‘county official’ (Fylkesmann).

The first form, the public cemetery, until January 2012 called a ‘public churchyard’ offentlig kirkegård, is illustrative of the Norwegian situation. 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.

Yet, it remains church oriented because the Lutheran parishes still legally own the graveyards. In addition, the management of the cemetery lies in the hand of a confessional organ: the joint parish council (kirkelig fellesråd). Cemeteries had

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156 Funeral Act §1.
157 Funeral Act §20. This legal option dates from a time where rich families had their own cemeteries, though that hardly occurs anymore. There are no private commercial cemeteries as in The Netherlands.
158 See Church Act (§15, b) as well as Funeral Act §3.
159 Funeral Act §1.
160 The joint parish council (kirkelig fellesråd) is a religious organ that takes care of 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 (there can be several parishes in one municipality), one priest (prest) or parish priest (sogneprest, who is a representative of the Bishop) and one municipality representative (Kirkelov §12 and §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 ‘kirkeverge’ referred to a person, in modern times this is an institution. A parish council is an elected board of an individual parish which has the responsibility for church education, church music, and ‘diakonalt’ labor within the parish. In municipalities with more than one parish, the joint parish council takes care of the cemetery administration and management; in an individual parish, this befalls the parish council.
been an administrative municipal responsibility since 1837, which was reconfirmed in the first burial law of 1897 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, Section 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, Section 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. Only a registered belief community can have its own cemetery (Funeral Act, Section 1), which excludes unregistered belief communities or nonreligious communities.

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. However, this does not eliminate all economic distinctions. For example, it is possible to lease the rights to a grave (gravfeste) 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. Crematoria, and a handful of private cemeteries, are then 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. There are about 40 crematoria in Norway as opposed to 2,000 cemeteries.

161 This is the 1897 ‘Law about Churches and Churchyards’ (Lov om Kirker og Kirkegårder).
163 The Act relating to Religious Communities, etc., 1969, Section 18. Translations taken from http://www.ub.uio.no/ujur/ulov/
165 This is not to suggest that burial cannot be costly. I refer here solely to the cost of a grave, not the burial ceremony. In Norway, families can apply for a one-time sum of financial support (gravferdsstønad).
166 Around 40,000 people each year die in Norway, and around 41% of them are subsequently cremated. The percentages in urban and rural areas vary. See http://gravplasskultur.no/wp-content/uploads/2018/03/kremasjonsstatistikk-2017.pdf
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 and provides a free grave for all, at least for 20 years. Norwegian regulations are by far the most egalitarian of the three countries when it comes to the financial aspect of procuring a grave. The legal right for registered belief communities to have their own cemetery attests to a concern with collective equality yet, something not extended to nonreligious communities like the humanists.

2.1.4 Summary

A look at the legislative frameworks reveals large institutional variety. I would like to summarize the most common forms of institutional governance in Table 1 below.¹⁶⁷

Table 2.1: Institutional characteristics of the burial domains

<table>
<thead>
<tr>
<th>Institutional characteristics burial domain</th>
<th>France</th>
<th>Netherlands</th>
<th>Norway</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cemetery ownership</td>
<td>Municipal monopoly</td>
<td>Municipal, confessional, or private ownership status</td>
<td>Near confessional monopoly. Confessional ownership by Lutheran congregations. Other confessional forms of ownership are allowed, but not for nonreligious communities (humanists)</td>
</tr>
<tr>
<td>Cemetery governance</td>
<td>Mayor and municipality <em>(services des cimetières)</em></td>
<td>Graveyard owner if private cemetery; mayor and council (B&amp;W) if municipal</td>
<td>The joint parish council <em>(kirkelig fellesråd)</em> in collaboration with municipality; at the national level, the Department of Culture and Council of Bishops</td>
</tr>
<tr>
<td>Maintenance responsibility</td>
<td>Municipal employees</td>
<td>Municipal employees <em>(Begraafplaatsbeheerder)</em>, (confessional) volunteers, private companies¹⁶⁸</td>
<td>Church warden <em>(Kirkeverge)</em> or the Graveyards/Burial agency, City of Oslo <em>(Graverdsetaten)</em></td>
</tr>
<tr>
<td>Financial responsibility</td>
<td>Municipality</td>
<td>Confessional owners, private owners, or municipality.</td>
<td>Municipality</td>
</tr>
</tbody>
</table>

¹⁶⁷ In all three countries there is some variation between capitals cities, towns, and small villages.

¹⁶⁸ As discussed, there are a variety of mixed forms.
2. 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 (Chapter 3), I want to show how the link between church and cemetery has developed over time, while basically remaining in place to this day.

2.2.1 France: From Municipalization to Laicification

In France, cemeteries were church territory under the Ancien Régime (14th-18th century). Jewish and Protestant burials posed a problem for the monarchies, because the Catholic Church prohibited the burial of nonmembers on their sacred ground. They refused to bury certain people, “including suicides, duelists, actors and actresses, non-Catholics and excommunicated Catholics.” 169 Worse, the Catholic Church occasionally ordered exhumations. Burial at the time was characterized by a large differentiation 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). 170 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 the churches was frequent. Following the revolution (and the rise of Napoleon), cemeteries became without exception municipal matters: Now everyone had the right to be buried there. Cemeteries became more hidden and were located outside of the city. Burial within churches was abolished. 171 Some of these changes were inspired by concerns with the

171 Ligou: 1975, 68.
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’ lead 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.’

During the Revolutionary Period (1789–1799), the ideals of social inequality, freedom, and the dissolution of the societal order lead to numerous proposals to rearrange burial practices. Yet, there was a set of competing groups with rivaling ideas. Revolutionaries called for the abandonment of all class and religious privileges in the graveyard. From now on, it was said, birth, marriage, and death need to be arranged solely by the State. Catholics, contra-revolutionaries, 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? According to Kselman, legislators 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.”

Napoleon and his legislators took this to heart in the formulation of the Napoleonic Decree, 23 of Prairial XII (12 June 1804). This very influential piece of

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172 **[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.

173 Helsdingen:1997 discusses rivalry over different commitments, omitted here for reasons of space.

174 Joseph Fouché and revolutionaries like Chaumette sought to de-Christianize the cemeteries (see Kselman: 1993, 126, 166; Van Helsdingen: 1997, 11; Etlin:1984, 236-238). They suggested removing all religious elements from the cemeteries and putting a sign up at the entrance to every cemetery stating; “Death is an eternal Sleep.” But while their reformist ideas emphasized decency and simplicity, some revolutionary abuses provoked a wave of criticism of the revolutionary management of the cemeteries. In August and October 1793, the royal monuments were destroyed and thrown into a common grave. The crowd abused the corpse of Henry IV for two days. Furthermore, were there several instances of desecration, for example, at St Denis (Kselman: 1993. 166). Appalled by the revolutionaries’ disrespect for the dead, figures like Jacques Michel Coupe and Bontoux formulated counterproposals. In the words of Bontoux (1796, 3), the leaders of Terror “had no more regard for the living than for the dead.” Cited in Kselman (1993, 168).

175 I refer here to Kselman (1993, 169), who quotes Bontoux (1796, 3).
legislation, 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 municipal responsibility and property. Protestant and Jewish cemeteries, however, were not included in this decision.\(^{176}\)

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 and 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 at the time. On the one hand, the clergy was allowed to refuse the burial of a deceased person and to 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.\(^{177}\) But at the same time, the mayor could claim the power to have somebody interred in consecrated ground.\(^{178}\) There was thus an unresolved tension between church and municipal powers. And this tension 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, though nevertheless a strong Catholic influence remained. Furthermore, previous revolutionary concerns were caught up by existing distinctions in French society. As someone mentioned in 1844, “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.”\(^{179}\) To

\(^{176}\) This is why currently some remaining old Protestant cemeteries exist in Bordeaux, and some Jewish cemeteries in Carpentras, Paris-Montrouge, Marseille, Mulhouse, Lyon, and Strasbourg.

\(^{177}\) The so-called ‘\textit{coin des réprouvés}.’

\(^{178}\) 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 urged to take a tolerant attitude with regard to the services for the dead (Kselman: 1988, 315, ff 12).

\(^{179}\) Alphonso Esquiros, quoted in Kselman (1993,184).
resolve this tension between the church and municipal powers, debates over the abrogation of Article 15 ensued. The segregation and occasional exhumation of unbaptized children from consecrated ground figure in the anticlerical legislation of the Third Republic.\textsuperscript{180} In this battle, both Catholics and Republicans “appropriate the language of freedom in making their cases.”\textsuperscript{181} 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. Republicans win, and Article 15 is abandoned with the law of 14 November 1881. Further laws completed the ‘laicification’ of this matter in 1884, 1887, and 1905 (2.1.1).

\textbf{2.2.2 The Netherlands: From Reformed Status Quo to Pluralization}

In The Netherlands we observe similarities with French burial developments at the start of the 19\textsuperscript{th} century. 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, as a result 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.\textsuperscript{182}

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 found in the Decree to bury in the churches and the requirement for cemeteries to have a minimal distance of 35 to 40 meters from villages. Financial objections were raised, particularly in Amsterdam: In The Netherlands, ‘wet soil’ required large sums of money for putting cemeteries outside of the city. The Decree

\begin{flushleft}
\textsuperscript{180} Insistence on the Catholic dogma that an unbaptized child is corrupted by sin and, like suicides and drunks, must be buried in a separate section only fed anticlerical sentiments (Kselman1993: 193; 1998: 318).
\textsuperscript{181} Kselman: 1993, 197.
\textsuperscript{182} 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 Lutheran/Calvinist doctrine).
\end{flushleft}
was consequently abolished, yet under pressure from medical commissions partially
reinstalled in an amended form in 1827.\textsuperscript{183} Article 15 of the Napoleon decree was
replaced in 1827 by a municipal obligation to provide for municipal cemeteries.\textsuperscript{184}
This municipal obligation, formalized in the first burial law of 1869, 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’\textsuperscript{185} 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.\textsuperscript{186} On the part of the municipalities, resistance was strong against the
municipal obligation to provide for a municipal graveyard outside cities. Municipal
budgets were small, and the cost of constructing graveyards was high. They argued
that there were already many Dutch Reformed \textit{[Nederlands Hervormd]} cemeteries
where everybody could be buried. Furthermore, there were ample special cemeteries
available. The government nevertheless insisted. The legislature wanted above all to
assure that no corpse remained unburied, and that on the part of the government there
was an option everywhere for burial, a confessional churchyard could, for whatever
reason, refuse to accept the corpse.\textsuperscript{187}

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

\begin{flushright}
\textsuperscript{183} In Amsterdam, burial within the churches continued until 1865 (Cappers: 1987, 105)!
\textsuperscript{184} The municipal monopoly prescribed by the Napoleon 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.
\textsuperscript{185} \textit{Wet tot vaststelling van bepalingen betrekkelijk het begraven van lijken, de begraafplaatsen en de
begrafenisregten}. This is my translation.
\textsuperscript{186} Earlier attempts at prohibiting burial in the churches had been rejected in 1795 and 1808 for mostly
financial reasons. A prohibition of burial in cities and villages was ignored on 8 June 1795 by the
‘Provisional Representatives of the Dutch People.’ Likewise, proposals were made by medical
scientists emphasizing a “concern for fresh air” (Cappers: 1987, 102); A prohibition on burial in the
churches was articulated but not taken serious 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 the church, by promising them a tax cut (Lievaart: 1982, 53).
\textsuperscript{187} This a legal commentary by a central administrator, Hoog: 1870, xii and xxvii; my translation.
\end{flushright}
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.\textsuperscript{188} This way, “its costs could not be large” (Hoog: 1870, xxviii).

Catholics and Jews\textsuperscript{189} actively sought to construct (and maintain) their own cemeteries, probably for theological reasons and as minority faiths against 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 to abolish the legal basis for confessional graveyards. This influential man, who engineered the constitution of 1848 and who was Minister of Internal Affairs, drew up a new burial law in 1852, which prioritized public health and order over confessional considerations. It allowed church communities to maintain the already existing cemeteries, while abandoning future confessional cemeteries.

Thorbecke’s proposal failed in the course of the 1860s when the power of the confessionals increased. Orthodox Reformed and Catholic political movements developed during the 1860s in response to the educational reforms that liberals had pushed through parliament (Monsma and Soper 1997: 56). The position of the enlightened liberals and their increasing anticlericalism had strengthened during the 19\textsuperscript{th} 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.”\textsuperscript{190} Religious interests were thus given equal consideration to those of health and public order (Cappers: 1987, 106). This rise in the importance of

\textsuperscript{188} This option still exists but is not prescribed by contemporary law.
\textsuperscript{189} 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 (see Lievaart, Y., 1982). In the southern part of The Netherlands, many Catholic cemeteries still exist.
\textsuperscript{190} Hoog: 1870, xx, xxi.
confessional interests can be seen as a prelude to the wider societal emancipation of Catholics and other minorities that would 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 into our days.

2.2.3 Norway: From Municipal Administration to Churchly Administration

In our last country we observe a very different burial history. The other contexts revealed that the changing relationship between the church and cemeteries was propelled by medical developments, which increasingly turned death into a matter of states (La Berge: 1992). In many areas of Europe, “Public health was concomitant with progress and civilization.” Yet, for Norway, we find little material on matters of burial hygiene and public health. Fæhn (1994, 282) mentions the 1805 prohibition of burial in churches because of bad odors in the summer. Yet, other concerns of hygiene remain unexplored. Nor was it easy to find institutional studies that address the broader political context of the first burial law. Instead, the question of cemeteries is treated historically as an aspect of church governance. Only since 1996 does there exist a specific funeral Act in Norway. I therefore took an indirect approach: For the historical analysis, I looked at the function of the church warden and changes in the identity of this person (and later institution). This can indirectly provide insight into the historically interwoven, yet changing, relationship between

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192 There are some references to the need for inquiring the “helseraet” §33 in the construction of a new churchyard (1896 Church and Graveyard Act). The second part of §34 mentions the need for churchyards outside “kjøbstæder.” Otherwise every parish “shall have a churchyard next to or in close proximity to the church” (§34). Given that churches were often positioned in 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 find the same resonance as it did in The Netherlands and France. Arguments for health reasons were there deliberately used to counter confessional power.
193 A handful of available studies/projects focuses on the ritual aspects of death, e.g., Aagedal, O. (ed.) 1994; Neegard, G.: 1993; Hansen: 1977. Alternatively, there was a focus on ideas of death internal to confessional groups, e.g., Aukrust, Olav O. (1985). For a broad study of the Early Protestant Tradition, see the completed project at the Faculty of Theology, e.g., Rasmussen, T.: 2017. Fæhn (1994) discusses the period from the Reformation to now, though in the sections on burial (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 (at this time largely only 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).
graveyards and local communities, church and (later) municipalities. Furthermore, I looked at the more recent 2012 changes to the 1996 Funeral Act.

Ever since Norway’s conversion to Christianity (around 1000 AD), the church has been involved in burials and the maintenance of graveyards, but in different roles and to different degrees. Typically, the local community took care of the church building and graveyard, and the burial process was taken care of by the family and the local community (Lappegard: 1994). 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 of 1896 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. 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 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. For reasons of space we cannot deepen this discussion. 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 (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

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194 I rely on Alsvik’s (1995) excellent study.
195 This included functions such as the bell-ringer, the church-warden, and the sexton.
196 Of the six chapters in the law, only the fourth is dedicated to churchyards.
197 For example, the 1897 act introduced a church supervisory body (kirkens tilsyn) to take part in the appointment of church wardens. It included representatives of the parish, the municipality, and council (formannskap).
198 Historically, the church warden was a person, but later it often referred to an institution.
Reformation (1536-1537), church governance became integrated into state governance (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 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. In the course of 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. It transferred 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 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.

In the course of 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 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 church communities bear the responsibility for building and maintaining the graveyards.\(^{199}\)

In 1982, the Norwegian parliament appointed a Church Act Committee (\textit{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 supervision. Thus, both subscribed to maintaining the link between graveyard and church, yet 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.\(^{200}\) The majority, however, considered graveyards a “nonchurch administrative domain.”\(^{201}\) Ultimately, in the Funeral Act in 1996, the department decided in favor of leaving the administrative responsibility to the church.

The latest formative phase concerns a broadly shared political commitment to “take religious minorities’ needs better into consideration.”\(^{202}\) This results in the reformulation of the Burial Law of 2012. Section 2, second lid of the 1996 Funeral Act well revealed the mixture of public and church-oriented function: “Churchyards

\(^{199}\) Passage taken from NOU 1975: 30 State and church, quoted in St. Meld. 2007: 17, 106.

\(^{200}\) NOU 1989: 7, 230, member Skurtveit.

\(^{201}\) 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 was, however, too low to draw any clear conclusion (Raustøl: 1993).

\(^{202}\) Å legge bedre til rette for å ivareta behovene til religiøse og livssynsmessige minoriteter (Innst. 393 L (2010-2011)).
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 throughout the term kirkegård with the term gravplass. Importantly, the updated law opens with the words: “Burial shall occur with respect toward the deceased’s religion or belief.” These legal changes reveal the concern with the changed character of Norwegian society and the need for more inclusive public institutions. However, the law was not changed with regard to the large principal question of who is administratively responsible for (or physically owns) the graveyards.

2.2.4 Summary

In conclusion, state organized religion relations have 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 in 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 in 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.

203 The argument is often made that the cemeteries do not convey a confessional heritage but a cultural one.
204 Also, the term consecration (vigsling) was replaced by ceremony (seremoni).
205 The revised Section 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. Section 23 recently added a requirement for an annual meeting in each municipality with all religious and secular communities.
2.3 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 were maybe 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 Chapter 1.4, such a broad state-organized religion discussion allows me to substantiate my choice for the core principles and schemas as hypothesized under Ha2.206 Let us shortly recall: I conceptualize French state-organized religion relations (Ha2) as a combination of Gallican, Associational, and strictly secular schemes (Bowen: 2007, 2012). The Netherlands use a combination of principled pluralism (Monsma and Soper: 1997) and a separation tradition (Maussen: 2009, 2012). For Norway, I propose a conceptualization as entailing establishment (remaining Lutheran hegemony), compensatory evenhandedness (compensating toward other minorities) and that of (municipal) dis-establishment schemes (Breemer: 2014).

2.3.1 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.207 After the French revolution robbed the Catholic Church of its power, the principles of the Republic are laid down. Struggles at the time of the Third Republic remove the church from the schools. The Law of 1905 allows the idea of *laïcité* to come to

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207 I rely on Bowen (2007, 1006), with reference to other leading historians on the subject, like Baubérot.
fruition, and separation between state and church is given legal form. 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. A ‘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. A second ‘associational scheme’ is a variation of Republican thought. Yet, it crucially entails focusing on citizen associations and civil society. A 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 state role. Maussen (2009) adds a ‘strict neutrality script’ 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 want to show how these strands of reasoning can capture an equivocal French approach to organized religion and state.

We can trace the struggle between French monarchs and the Catholic Church, leading 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

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

209 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, with a central role given to the state, which must ensure that all citizens and all newcomers learn those values (Bowen: 2012, 359). Civil liberties are secured through state power and a public space that is neutral with respect to religion (Bowen: 2006, 14).

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

211 I distinguish this strand in agreement with Maussen (2009, 44), yet as distinct from laïcité. For me laïcité can mean many things, sometimes overlapping with a ‘strict neutrality script.’

212 My approach is here heavily indebted to Maussen (2009, 43f).
approach dominated French politics until late nineteenth century (Bowen: 2006, 22). Tolerance in this respect is a matter of royal regulation of a recognized religion. It does not (yet) mean recognizing freedom of conscience. As Mauss (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 (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.213 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 follows, answered with a wave of counterterror. Revolutionaries institutionalized a ‘religion of the Republic’ with a festival for “the Goddes of Reason.”214 The second mode of thinking that eventually dominates is the commitment to individual freedom of conscience, embodied in the 1789 Declaration of the Rights of Man and of the Citizen. 215 After Robespière’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 forbid 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 Republican philosophy that urges its citizens to abstain from all communal loyalties other than those to the French nation (Maussen: 2009, 44).

The strict separationist attitude was abolished in 1801 when Bonaparte signed a Concordat with the Pope. Catholicism then becomes the religion of the French people, albeit not as an established religion. Bowen sees this arrangement as an

213 I rely here on Baubérot and Bowen: 2006, 22
215 “No one may be troubled on account of his opinions, including his religious views, provided their manifestation does not disturb the public order established by law” (Art. 10).
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. 216  The Napoleon
regulations left the tension between supporters of the Catholic Church and monarchy
and anticlerical Republic factions in place. This is reflected in the shifts between
monarchical and Republican regimes following Napoleon’s later defeat.217

The conflict between ‘the two Frances’ culminated at the beginning of the
Third Republic (1871-1940) over schools. Once anticlericals gained parliamentary
power, they passed the “Ferry law” (1882),218 which stripped the clergy of their right
to inspect schools or to fire teachers who displeased them (Fetzer and Soper 2005:
70). A range of laws between 1882 and 1886 then secularized the classroom, allowing
only laypersons to teach and adopting a secular curricula aimed to form “peasants into
Frenchmen” (Bowen 2006: 24f.). This phase was very formative for the contemporary
imagery of French state-church relations: Laïcité becomes an object of struggle and
an actual word.219 Militant secularism (laïcité du combat) pits itself against those
favoring 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 affair220 (1898-1899). In the ‘hot years’221 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 lawmakers.
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. This
last phase led Bowen to highlight an associational scheme222 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

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216 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.
217 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).
218 Jules Ferry, Minister of Education, enacted this.
219 This is the first recorded in the Petit Dictionary in 1871 (Bowen: 2006, 25).
220 This involved the false accusation of high treason toward a Jewish artillery Captain. The affair
deeperly 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.
221 Bowen relies on Baubérot (2004) for this account.
222 Bowen and Rosavallon (2004) see this as an internal Republicanism struggle, pitting a centralizing
Jacobinian political philosophy toward one emphasizing the importance of associations/civil society.
(association cultuelle) as stipulated in the 1905 law. The 1901 law allows 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 Concordatian system of officially recognized public religion for a privatized notion of le culte.223 Its first article “guarantees the freedom of conscience and the free exercise of organized religions …” Article 2 stipulated that “the Republic will not recognize, pay, or subsidize, any organized religion.” However, the State of Council does recognize religion.224 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 the building prayer houses (Breemer and Maussen: 2012, 288).225 By 1950, this also included subsidies for religious private schools, on the condition that they teach the national curriculae (Bowen: 2012, 360). The 1905 law has remained the primary legal framework to the present day. Yet, discussions endure as to how to interpret its contradictory strands: Defenders of a ‘millitant’ (laïcité du combat), ‘strict,’ or ‘closed’ laïcité read the law as proof of strict separation and nonsupport; proponents of a ‘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.226

2.3.2 The Netherlands: Principled Pluralism and Separation Tradition

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223 Le culte, organized religion, has no legal definition but refers to the public protection and freedom of a religious organization regarding the mass, its buildings, and the teaching of its principles (Bowen: 2006, 18)
224 This confers legal recognition on the condition that the group comes together in formal ceremonies, the beliefs contain universal religious principles, the group has had a long existence and does not threaten public order (Bowen: 2006, 18).
225 Moreover, the state or municipality assumes the costs for Catholic churches built before 1905.
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. 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 ‘pillarization’ and its transition into multiculturalism distorts an understanding of actual transitions in integration policies and Dutch state-church relations.

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 and Soper 1997 and entails (1) 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 or 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 and 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 van Oranje) were directed against the rule of Spain and Catholic Church. The battle

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227 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; Staham et al.: 2005, 434-435; Sniderman and Hagendoorn: 2007, 17-18, all referenced in Maussen: 2012, 338. Like Maussen, 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.”

for a Dutch Republic was thus at the same time a Calvinist fight for religious freedom.229

With the Union of Utrecht in 1579, the transition was made to a confessional state. The Union of Utrecht (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.230 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 anti-absolutistic character. Because the Reformed church had arisen out of the Dutch revolt against the Spanish Inquisition, the new republic refused forced membership (Roode: 1996, 20). The influx of leading thinkers like Descartes, Locke, Spinoza, and Bayle, who fled the religious wars elsewhere, further strengthened the commitment to religious toleration.

With the Batavian revolution (1975–1789), which marked the end of the Dutch Republic231, 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 affiliation other than the Reformed one was seen as something positive.232 Furthermore, in the short French period (1795–1814) the invasion of the French revolutionary armies lay the legal basis for a further separation between 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, this is abandoned in 1815. After it merged with the predominantly Roman Catholic Belgium, the provision was exchanged for a promise from the Belgian authorities to secure explicit

231 This marks the beginning of the Batavian Republic, which lasted until 1806.
232 Den Dekker van Bijsterveld: 1987, 28
supervision over the Catholic Church. This satisfied William I’s (1815-1840) need for interventionist control over the churches. The constitution installed in 1806 had allowed the government to regulate the organization and practice of all cults. Likewise, William I demanded that all church bodies obtain his approval for their internal regulations (bestuursreglement). This was when state and 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). Yet, the government still intervenes in matters of church.

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, communities could themselves decide on the internal regulation and practice of their faiths. 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 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 and 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 Coppelo 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. Catholics and

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234 There were six constitutions between 1795-1816.
235 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.
236 De wet op kerkgenootschappen, first paragraph (Hirsch Ballin: 1987, 12).
237 This law ensured parents the freedom to establish their own schools.
Protestants alike – despite their historical animosity – formed a strong political alliance against the liberals.\textsuperscript{238} 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 consensual philosophy” should all share “fully and equally in public funding” (Monsma and Soper: 1997, 57). This vision was ultimately set down in the Constitution of 1917, Article 23. It 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 and Soper: 1997, 60).\textsuperscript{239} 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 (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 peacefully together (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

\textsuperscript{238} Abraham Kuyper, an influential minister and mass politician, created the Orthodox Reformed Church (\textit{Gereformeerde Kerken}, 1892), which was a split off from the Public Reformed Church (\textit{Hervormde kerken}). And he created the ARP, the Antirevolutionary Party.

\textsuperscript{239} As they trace it, intellectuals like the Orthodox Protestant Abraham Kuyper, the Orthodox Protestant Guillaume Groen van Prinsterer, as well as the Catholic Herman Schaeppman 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 \textit{Hervormd} protestant nation, none sought to impose their ideas on the nation as a whole (Monsma and Soper: 1997, 59). Furthermore, as Van Rooden (2010, 70) notes, the deep anti-Catholicism had provided strong incentives for Catholic mobilization. The split among Protestants secured the majority of the combined Orthodox Reformed and Catholics.
opportunities and 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 remarks, one of the effects of depillarization was a larger emphasis on the individual freedom and protection against intrusive religious authorities. In this light, the existing financial relationship between the Dutch state and churches increasingly became seen as inappropriate.\footnote{Going back to the reign of King William I, the Dutch state had provided direct subsidies for churches. In 1982, the Church Building Subsidy Act (\textit{Wet Premie Kerkbouw}) was abolished (Maussen: 2009, 54). Since 1983, no structural scheme for direct subsidies is foreseen (Breemer and Maussen: 2012, 291). Yet, public support for houses of worship can also come from municipalities, or via indirect support.}

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 (\textit{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.

\subsection*{2.3.3 Norway: Establishment, Compensatory Evenhandedness, and (municipal) Disestablishment}

In the 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. Section 2 of the Constitution no longer mentions the Evangelical-Lutheran Religion as the official state religion, but emphasizes a “Christian and...
humanist heritage.” Yet, the Evangelical-Lutheran Church remains Norway’s popular church (*folkekirke*) (Section 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.”

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), 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 intertwining with public institutions; (2) a growing emphasis on religious freedom and equality between religious and secular communities – in light of the remaining Lutheran hegemony labeled as “compensatory evenhanded-ness”; (3) ‘disestablishment,’ the process of increasing independence and separation of the church from the municipality within the state-(Norwegian) 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 properties of the church to amass wealth and to create an integrated state. Yet, he introduced Lutheranism in a “careful and peaceful way” (Thorkildsen: 2012, 2). He appointed superintendents to replace the bishops but left 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 became thus 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 three days (Elstad and Halse: 2002, 102). By

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

242 Since 2012 he is no longer obliged to “uphold and protect” it,” Article 4.
the end of the 1600s, a gradual relaxation occurred vis-à-vis foreigners with whom the Kingdom trades, albeit not for ordinary citizens.

The otherwise liberal constitution of 1814 continued this emphasis on religious unity. Section 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 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 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 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 from a church-run educational system to that of a modern state-governed educational system occurred (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 schooling system waned. Two features are interesting to note: Very unlike France, where the common school was supposed to be a secular school, the option of a religion-free

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

244 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 (Elstad and Halse: 2002, 114-115).

245 Conflict between two upcoming parties (Venstre and Høyre) of liberals and conservatives over the identity of the common schools manifests itself in the 1870s. The liberals wanted a less church-oriented and more democratic and uniform schooling system (ehets skole). 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 liberals who emphasized educational reform, culminating in the folkeskoleloven of 1889.
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 the curriculum). Yet, by making these schools confession free, it was feared that private confessional schools would subsequently blossom. 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 a prohibition to organize 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 Monk orders. Monks were allowed in 1897, but 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 between state and church. On the one hand, local government and church become more interwoven, through decentralization and democratization. With the Alderman Act of 1837, national decision-making power was transferred to locally elected bodies; now the church minister very often became leader of the new municipal board. And 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, as a result of a gradual internal church democratization process (kirkelig reformbevegelse), we also see demands for more separation between 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. 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

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representatives, as well as changes at levels higher up in the church hierarchy (Molland: 1979, 8). However, this movement was only very slowly 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 et al.: 1991, 241). An initial realization of Arup’s proposals, however, did not come into effect until the 1920 Parish Councils Act.

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, again the reforms were struck down. The very positive attitude of the political elite toward the church, which characterized the war period, evaporated in the five years following (Furre: 1991, 191, 278). Among other things, the “battle over hell” confirmed fears in the Labor Party of the possibility of conservative forces in the church coming to power. 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 amendment, 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,

248 A 1908 church committee investigated the issue. A minority followed Taranger’s proposal for a free church, whereas 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.

249 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.

250 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? During a radio show Professor Halleby said, “You know that if you were to die at this very moment, you would plummet down to hell?”

251 Lov om trudommssafunn og ymist anna.

252 http://www.trooglivssyn.no
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 opposite 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\textsuperscript{253} 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.

2.3.4 Comparative Reflections

The comparison of these otherwise rich and divergent histories reveals for all countries that the period from the 1840s to the early 1900s was particularly formative for state-church relations.\textsuperscript{254} Liberal ideologies arose ascendant 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.’\textsuperscript{255} In The Netherlands, liberals had to fight against a plurality of confessional and nonconfessional groups. The result was compromise and a legacy that sees all directions (\textit{richtingen}) as equal (‘principled pluralism’). In Norway, the construction of the nation-state plays itself out, among others, in the realm of

\textsuperscript{253} 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. \textit{Grundvigians} typically supported an open conception of the church as including a wide range of people. Pietist groups typically defended a more circumscribed idea of the church and what it means to be Christian; freedom from state interference was in that respect more central to their concerns.\textit{Grundvigians}, who shared similar concerns about church autonomy, saw the benefits of an intervening state to keep the church open enough.

\textsuperscript{254} 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).

\textsuperscript{255} The battle between proponents of a Catholic church and monarchy and the anticlerical Republicans gives rise to a stereotypical characterization of a militant laïcité, which I call ‘strict neutrality scripts.’
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 (Ha1 and Ha2) – and they 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’) And we saw an emphasis on religious plurality and possibility of various confessional cemeteries against liberal proposals for abandonment in the Dutch 1869 burial law (‘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’).

2.4 Conclusion

In preparation for the discussion of contemporary responses to ‘new’ diversity (see next chapter), this chapter investigated the legal contours of these countries’ burial domains. I asked three sets of questions: (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 institutional formats by providing a two-fold genealogy. It traced historical transitions within the burial legislation itself (looking at a range of factors at play) and, second, I provided 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 2.1.4. The different ways these countries provided an institutional form to 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.\footnote{See the 1996 Funeral Act, Section 1, and 1969 Act Relating to Religious Communities, etc., Section 18.} The legal possibility for establishing a confessional section is absent there.

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 very important. 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 equally, rather than purging the public cemetery of a religious imprint, as was the case in France.\footnote{This is the legal imagery, though many French cemeteries nevertheless have retained a clear Catholic character.} 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.\footnote{This involves costs for a grave but not the funeral ceremony.} Quite unlike France, public cemeteries are seen as 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 have played an explicit role in the formation of the burial legislation in tandem with concerns of hygiene and public health (see Section 2.2.4). The standard pictures (Ha1) of laïcité, ‘pillarization,’ and ‘establishment’ were for the legal regulation of cemeteries not a bad approximation. For France, the rise of a militant secularism (laïcité) 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 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 2.3) reveals how these standard designations are not “wrong” but simply overshadow 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 4.3.4, I argue that we see signs of the ‘disestablishment strand’ in the reasoning underlying the 1996 amendment. 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 Napoleon Decree (1804). This affects, even today, the regulation of cemeteries in three departments in the region Alsace-Moselle (see Section 2.1.1).

Apart from these historical details, in this chapter we discovered huge legal diversity between these states in how they 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 the ways in which 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 3) and everyday responses (Chapter 4) to the burial needs of Muslims and humanists?

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259 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 latest legal changes in 2012.
Chapter 3: National Policies and Regulations: Responses to Muslims and Humanists

3.1 Introduction

The previous chapter discussed the legal burial regimes and their genealogies. Large national differences between countries exist in the ways in which 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 have to 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 results from changing migratory processes. Muslims were originally not part of the historical context in which burial and or state-church laws were formed. The novelty of humanist burial needs in turn arises more from endogenous changes in Norwegian society, an increasing pluralizing population. This entails 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.\(^{260}\) The position of humanists and other atheists in Norway is special: In no other country in the world is the Humanist Association (\textit{Human-Etisk Forbund}, hereinafter HEF) so large.

How do these countries respond to these contemporary challenges at a national level over time? And are policy responses in line with burial laws and state-organized religion relations? This chapter looks at national policy responses as well as estimates of existing material provisions. National policy responses\(^{261}\) include proposals for legal changes, policy memoranda, guidelines, national declarations, and public


\(^{261}\) Policy outcomes/responses are all intentional actions engaging public authorities, including decisions not to act, in light of the accommodation of Islam or humanists (Breemer and Maussen: 2012).
recommendations (such as the French Administrative Directives, *Décrêtes*). But it can also include national research projects and plans like an inventory of available institutions, national subsidy schemes, and public reports like official Norwegian reports (NOUs).²⁶²

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. This raises three puzzles: First, if a prohibition of special sections and confessional cemeteries according to *laïcité* constrain regulations toward Muslims, then why are there still 75 carrés and two Muslim cemeteries? Second, why are there not more Muslim cemeteries as a result of the evenhanded legal framework and pillarization legacy in The Netherlands? And, likewise, why are there no Islamic cemeteries in Norway? Central to the humanist complaint, the question arises why the Church of Norway gained administrative charge of the cemeteries in 1996, in light of 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 and 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 4 and 5 for the final analysis.

I introduce the challenge of Muslim burial practices in a context of immigration, followed by an estimate of numbers of available provisions (Section 3.2). I 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 3.2.3) and one set of arguments for the 1996 law, before summarizing the overall situation (Section 3.3).

### 3.2 Muslim Burial Practices in a Context of Immigration

As mentioned in the Thesis Introduction, European countries are increasingly witnessing a last stage of a migratory pattern. Muslims from a diverse range of

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²⁶² NOU refers to *Norges offentlige utredninger.*
backgrounds not only live, but today 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. They reveal the large variety of burial practices for the various Muslim groups coming from different countries (Dessing: 2001). Furthermore, they show how these ‘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. Nevertheless, the wide variety of strands of both Sunni and Shia’i 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). 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. Four sets of ritual practices are central to all strands of Islam (Aggoun: 2006, 19; Døving: 2005, 59). In the order of sequence, (1) a qualified person from the community should ritually wash the body according to precisely defined rules (2) The body should be wrapped in a simple tissue called the kafan. Here variations exist between different strands of Islam. (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.

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

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

266 These are mostly addressed in the Hadiths and not in the Koran.

267 Jonker: 2004; Dessing (2001, 151-152) mention several varieties; wrapping the body in three to seven pieces of cloth, three for Sunni Muslims and seven for Alevites.
A proper burial testifies to a life as a good Muslim, superseding the religious significances of, for example, 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 amongst 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 and 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 3.5-5 million, equaling around 6-8.5% of the overall population.268 The first recruitments of Moroccan/Berber workers goes back 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 Tunisia).269 Islam is commonly considered the second largest religion in France after Catholicism.270

By comparison, there are an estimated 4-6% Muslims in the total population of The Netherlands. The largest wave of migration occurred in the 1960s and 1970s as a result 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 the World War II.271 Islam is the third largest religion in The Netherlands.272

268 The numbers are considered controversial because formal statistics on religious affiliation are not allowed. The Swiss Metadata of religious affiliation in Europe base (SMRE) provides an overview of surveys and barometers that estimate numbers ranging from as little as 2% to 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, 17.6% for Norway; of Catholics in France 40%, in The Netherlands 28%, and in Norway 1.5%.
269 Many Muslims who came to France as colonial workers and later as colonial subjects had French citizenship, or they came as guest workers. See Témime: 1999; Sayad and Gillette: 1984; Noiriel: 1988; Maussan: 2009.
271 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
Muslims in Norway make up an estimated 2.5% of the total population (SMRE). Norway is religiously speaking relatively homogeneous, with membership in the Church of Norway equaling 70.6% of the total population (2017)\(^\text{273}\); 11.6% are not registered as members of other communities\(^\text{274}\). The fastest-growing groups are Muslims and Roman Catholics (Thorkildsen: 2012, 1). Today, Muslims represent the second largest group of all religious and life-stance communities outside the Church of Norway, with 166,861 registered members (2018), equaling 25.5%. Humanists are the third-largest group, closely following Muslims, with a registered membership of 95,030 (2018), equaling 14.5%\(^\text{275}\). Adherents to Islam are largely Pakistanis who came to Norway for economic motives 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 all three countries France has the most mature immigration pattern and -presumably - the highest Muslim mortality rate. 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 3.1: Estimated Muslim population versus Islamic sections and cemeteries

<table>
<thead>
<tr>
<th></th>
<th>France</th>
<th>The Netherlands</th>
<th>Norway</th>
</tr>
</thead>
</table>

of varying ethnic origin arrived since the 1990s as political refugees or asylum-seekers from Bosnia, Somalia, Iran, and Afghanistan (Van de Donk: 2006, 114).

\(^{272}\) The Dutch Statistical Department (SCP 2017) estimates the following: 51% is nonaffiliated, 24% Catholic, 15% Protestant, 5% Muslim, and 6% other affiliation. Retrieved from https://www.cbs.nl/nl-nl/nieuws/2018/43/meer-dan-de-helft-nederlanders-niet-religieus

\(^{273}\) In 2017, it had 3,740,920 registered members. This reflects a decrease of 4.6% over the last four years. Retrieved from https://www.ssb.no/kultur-og-fritid/statistikker/kirke_kostra

\(^{274}\) That is, 619,222 registered members (December 2017). 11.6% of the population is thus not registered as member of any religious or life stance community. The HEF’s own population investigation by TNS Gallup shows different numbers, albeit a similar trend; their numbers are based on 1,163 interviews conducted in February-March 2016. They note the decreasing membership in the Norwegian Church, which they quote as 7% since 2012. SSB statistics sets this at 4.7%. And the HEF notes an increase of those not affiliated at all, estimating this group at 21% in 2016, which is 10% higher than the 11.6% calculated on the basis of the SSB numbers (December 2017). The SMRE estimates 17.6% to be unaffiliated in Norway.

\(^{275}\) See https://www.ssb.no/trosamf/SSB, December 2018.
<table>
<thead>
<tr>
<th>% Muslims</th>
<th>Number of Muslims</th>
<th>Percentage of the population</th>
<th>No. Islamic cemeteries</th>
<th>No. sections</th>
<th>First Muslim area</th>
<th>Repatriation rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Muslims, 6.0-8.5% of the population</td>
<td>3.5-5 million</td>
<td>5.8%</td>
<td>Two (L’Ile de Reunion, 1911)</td>
<td>About 75</td>
<td>1857 “Enclosure” Père la Chaise for Ottoman Sultan</td>
<td>80% (Algerians, Tunisians, Moroccans)</td>
</tr>
<tr>
<td>Muslims, 5.8%</td>
<td>1 million</td>
<td></td>
<td>One (Almere in 2007)</td>
<td>About 70</td>
<td>1930’s Kerkhoflaan in The Hague for Indonesian Muslims</td>
<td>90% (Turks, Moroccans), Surinamese/Indonesian much lower</td>
</tr>
<tr>
<td>Muslims, 2.5-3.1%</td>
<td>120,000-150,000</td>
<td></td>
<td>None</td>
<td></td>
<td>1970’s Gamlebyen for Pakistani Muslims</td>
<td>40-50% (Pakistani)</td>
</tr>
</tbody>
</table>

This might be explained based on the countries’ state-organized religion regimes (Ha1). But that raises a further question: If burial regulations in France are constrained by laïcité, why are there nevertheless still 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’ (Ha1), encompassing as it does an expectation of ‘compensatory evenhandedness.’ Yet there are no Islamic cemeteries, despite their legal permissibility. Regarding the humanists, why did the Norwegian state charge the church with the 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.

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276 These numbers are rough and problematic estimates. Aggoun (2006, 55) counts (23) in L’Ile de France, 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 (4/5), l’Ile de Reunion (5). My research reveals 7 cases in CRCM Rhône d’Alpes, and 2 to be opened. Furthermore, a section can contain 10 or 100 graves, so comparisons are difficult.

277 See Harmsen (2007, 65-74). They list the cemeteries known to them with Islamic sections. Data stem from 2007, so by now this number is surely higher. They stress that these are provisional estimates.

278 This number is based on a questionnaire executed by KA (Arbeidsgiverorganisjon for kirkelige virksomheter) 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. nr. 17: 2007–2008, 105, mentions 25 sections.

279 The repatriation rate refers to the estimate of persons returned to the country of origin or to that of the parent’s origin. These are informal estimates based on public documents, report of burial agents, or Muslim representatives working in the field. Dessing (2001) mentions 99% for Dutch Turks and Moroccans.
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. This may provide the reader with a sense of how exceptional it really is: 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!

Table 3.2: Existing confessional diversity amongst cemeteries/crematoria

<table>
<thead>
<tr>
<th>Confessional diversity</th>
<th>France</th>
<th>The Netherlands</th>
<th>Norway</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of cemeteries</td>
<td>Around 50,000 280</td>
<td>Around 4,000</td>
<td>Around 2,000</td>
</tr>
<tr>
<td>Nature of diversity</td>
<td>Seen as ‘exception’</td>
<td>Huge diversity</td>
<td>Little diversity</td>
</tr>
<tr>
<td>Specified</td>
<td>A handful of Jewish and Protestants cemeteries from before the Napoleon decree (1804) and for Jews (1806). Exceptions in Departments of Alsace-Lorraine, Haut Rhin, Bas Rhin, which fall under Concordat arrangements</td>
<td>Roman Catholic (1311), Protestant Dutch Reformed, (910), Calvinistic (11), Evangelical (1), Herrnhuters (2), Lutheran (1), Reformatoric (2), Syrian Orthodox (1), Old Catholic (3). Private ownership (196), municipal (1487), or 34.52% of total 281</td>
<td>Local Christian (3/4), Quakers churchyards (2), Catholic churchyards (2), Free-church (Frikirkelige) graveyards (2/3) 282</td>
</tr>
<tr>
<td>Jewish cemeteries</td>
<td>Maybe 5 (before 1804)</td>
<td>267</td>
<td>3 283 (two in Oslo and one in Trondheim)</td>
</tr>
<tr>
<td>Crematoria and % cremation</td>
<td>128 crematoria (2008), 27% cremation 284</td>
<td>62 crematoria, 52% cremation</td>
<td>40 crematoria, 35% cremation (2007) 285</td>
</tr>
<tr>
<td>Ownership crematoria</td>
<td>Municipalities</td>
<td>For the most part, private companies and some municipalities</td>
<td>Municipalities</td>
</tr>
</tbody>
</table>

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280 Interview with an anonymous person. I am unsure about its accuracy, but as a rough indicator it should hold. Estimates lie at 36,000 municipalities and 50,000 cemeteries.
281 The source is list created by Leon Bok, a funeral specialist.
282 There are Christian cemeteries in the surroundings of Kristiansand in Egersund and in Lofoten; two Quakers churchyards in Rogaland; two Catholic churchyards, one in Tromsø and one in Alta; and three Evangelical Lutheran Free-Church churchyards in Levanger and Larvik (St.meld. nr. 17: 2007–2008, 105).
283 In 1896, Jews in Kristiania bought a part of Sofienberg kirkegård, and in 1917 they established a graveyard at Helsfyr (Plesner and Døving: 2009, 76).
284 For the French and Dutch estimates, I rely on the French Association of Funeral Information (AFIF) http://www.afif.asso.fr/francais/conseils/conseil33.html#INFORMATIONS%20GENERALES%20285 See www.kirkegaardskultur.no
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. Yet, it does not necessarily create practical problems.\footnote{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 member Stichting Almeerse Muslims. 17 June 2009.} 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 3.3: Additional Islamic burial needs and their permissibility

<table>
<thead>
<tr>
<th>Burial needs permissible?</th>
<th>France</th>
<th>The Netherlands</th>
<th>Norway</th>
</tr>
</thead>
<tbody>
<tr>
<td>Burial without coffin.</td>
<td>No. Article R. 2213-15 du CGCT. Concerns with public health and hygiene</td>
<td>Yes, since 1991 burial law. Art 3 Decision on the Bill on the Disposal of the Dead [Besluit op de Lijkbezorging]</td>
<td>Yes.\footnote{Forskrift til lov om gravplasser, kremasjon og graverd (gravferdsforskriften) § 28.} In special cases the joint parish council can allow exceptions from the demand for coffin burial (Gravferdsforskriften § 28)</td>
</tr>
<tr>
<td>Burial within 24 hours</td>
<td>No. Minimum 24 hours. Article R2213-33. Yet, possible in case of an epidemic or for medical reasons</td>
<td>No, minimum of 36 hours, but possible with permission to bury between 24-36 hours acc. to Art 16 Wlb (happens nevertheless in practice)</td>
<td>No (?). Maximum 10 days burial (§ 12) (no mention of minimum time period)</td>
</tr>
<tr>
<td>Right to bury on Sundays</td>
<td>No. Sunday is the legal day of rest of workweek (Code du travail)</td>
<td>Yes, when private cemetery. Unknown when public</td>
<td>No/Yes (depends). Constraints from Norwegian public work hours, but solved by delegating to burial company\footnote{For a discussion, see Døving (2005, 116). 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.}</td>
</tr>
<tr>
<td>Permanent grave-rest possible?</td>
<td>No. Some ‘infinites’ (perpètuelles) do remain, but are rare. No private cemeteries provide permanent grave-rest. Concerns lie with urban planning and available space</td>
<td>Yes, in private cemeteries. Or by extending the grave rest. Limiting concerns: urban planning, available space as well as commercial exploitation</td>
<td>Yes/No (depends). Possible in one’s own graveyard. Or by extending grave-rest at a public cemetery, yet a 60-year limit</td>
</tr>
</tbody>
</table>

3.2.1 France: \textit{Les Carrés Musulmans} from Illegality to Practical Permissibility
With France, our first country, we limit our discussion to that of 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 we 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 imaginary. 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 often seen as a dangerous practice leading to communal tensions (crispation communautaire) or a ghettoization. As one of my informants strongly expresses it:

> I went this afternoon to a recently constructed cemetery where there is a Muslim section, a Jewish section, a Christian section and then the others, it is upsetting, ... it resembles the ghettos.\(^{289}\)

Yet, les carrés Musulmans is in fact a rather ‘dead’ (or at least dormant) issue when it comes to national politics or media coverage (unlike that of headscarves, for example). Nevertheless, over time we 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.\(^{290}\) And as we discuss in Chapter 4, a range of historical ‘exceptions’ existed before this time.

Yet, formally, the solution in the cemetery of Thiais was given legitimacy only in 1975 by an administrative directive.\(^{291}\) 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.”\(^{292}\) The area should furthermore remain open to all families of all religions.\(^{293}\)

\(^{289}\) Private email correspondance with a representative of a National Museum of Funerary Art. This person wants explicitly to remain anonymous.

\(^{290}\) Laurence and Vaisse: 2006, 142; Fregosi, Boubeker, and Geisser: 2006.

\(^{291}\) A circulaire has the status of a public recommendation, though it has no legal binding powers.

\(^{292}\) Circulaire n° 75-603 du 28 novembre 1975.

\(^{293}\) Conseil d’Etat: 2004, 327
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 make these arguments.294) 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 challenged laïcité constitutionally. Furthermore, this directive delegates the decision to the mayor, which remains the dominant strategy for two further directives from 1991 and 2008.295

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 and 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 and Taussig: 2007, 165), so that the Islamic landscape becomes overall more diversified. Organizations like l’OUIF296 and the FNMF came into being in 1983 and 1985, respectively. Furthermore, increasing numbers of voices begin 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 - lead Socialist Minister of the Interior, Pierre Joxe, to initiate CORIF,297 which aims to “put in place the right and duties of Muslims” (Godard and Taussig: 2007, 167). This

294 As Koopman et al. (2005, 56) analyzes; “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 amongst ‘nonbelievers’ is now often seen in that same light.” This is indeed a type of reasoning we experience in the real-life world, where administrators link the matter of confessional section to a history of Catholic exclusion. Yet, this is legally not the primary issue. Legally speaking, the French sections are open to all.

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

296 This a large Islamic federation incorporating more than 250 different Islamic organizations in France, 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.

leads to the 1991 second directive that further prescribes les careés confessionels. It
adds that (Section 2.1) burial in that particular area cannot take place other than as a
result of the explicit will of the deceased, the family, or another person in charge; that
burial in other areas of the cemeteries still needs to be possible; (Section 2.2) the
confessional part cannot be separated in any visible or material form from the rest of
the cemetery. And finally, as mentioned above, (2.3) the mayor cannot take the
opinion of religious authorities into consideration in his/her decision on burial
allocation. These directives show, on the one hand, the political will to find a
solution. The latest directive of 19 February 2008 - 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 as a result of immigration, to
favor the burial of their close relatives on French territory.

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 in matters of cemeteries and Muslim parcels does not
require substantial modifications” (my emphasis). The result is a legal insecurity
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 to Dutch and Norwegian burial law. For Muslims it brings insecurity. As
a religious community, they have no reasonably option – let alone a legal right - to be
accommodated in their burial needs. This results furthermore in a section without
legal and formal status, which is best described as “the factual grouping together of
graves, the sum outcome of individual decisions” (le regroupement de fait de
sépultures, comme somme de décisions individuelles).

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298 This was signed by Philippe Marchand. Circulaire n° 75.603 du 14 février 1991, p.167.
299 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 favoriser l’inhumation de leurs proches sur le territoire français.
300 This is a letter by the Minister of Interior Affairs, Security and Public Freedom. 13 August 2000.
301 In Épox 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 more general concerns into consideration
and should not have delegated his authority to religious leaders (Machelon Rapport: 2006, 62).
Over the past two decades, increasing mortality rates have caused the burial of Muslim citizens to become a major integration challenge. Since 2000, national political initiatives have taken up the situation regarding Muslim burial needs. *La consultation de l'islam*[^303] installed a workgroup on the constructions of mosques and Islamic burial (Godard and Taussig: 2007, 173), also formulating policy guidelines for the newly institutionalized (CFCM, 2003) and related regional councils (CRCMs).[^304]

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.[^305] 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.”[^306] The report stirred much controversy, raising questions about the status of *laïcité* itself.[^307] The 2008 directive did not take up any of its recommendations.

### 3.2.2 The Netherlands: Lack of Contestation


[^304]: *Conseil Français du Culte Musulman* and *Conseil Régionaux du Culte Musulman*, respectively. It proposed making an inventory of all available burial spaces, in order 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 the distribution of information about French burial legislation (see Hakim: 2005).

[^305]: It proposed to add the following to the primary ‘neutrality’ article L2213-9: “In the exercise of police function, the mayor should always take into consideration the expressed will of the deceased in relation to their belief/conviction.” To article L2223-13 it added: “Consideration is given in this regard to the expressed religious conviction of the requestor” (Machelon Rapport: 2006, 65).


[^307]: See Chapter 6.3.3.
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 an Islamic part of a municipal cemetery 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 graveyard.” Some newspaper articles report that a high rate of repatriation still characterizes the burial pattern of large parts of the Muslim citizenry. However, the issue has nowhere the symbolic load 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. At stake were burial without a coffin, burial within 24 hours, and separate Muslim cemeteries. Burial without a coffin has been permissible since 1991, but the demand for burial within 24 hours is legally still not permitted (by Art. 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 (Article 17). Yet, 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 art. 88).

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. One issue lies in the availability of Muslim cemeteries and the possibility of realizing permanent grave-rest. To date, there is only one Muslim cemetery, inaugurated in June 2007. Furthermore, the total number of Muslim graf akkers would be insufficient if all Muslims were to desire burial in The

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308 Email correspondence of March 30 2009 with Director Graveyard in Dordrecht, who reports on common complaints heard.
309 For example, Jasper Enklaar ‘Moslims kiezen voor begrafenis in land van herkomst’ (NRC 29-7-08), Ibraham Wijbenga,‘Grafrust is heilig voor moslims’ (Trouw 23-11-07).
311 People told me that burial within 24 hours happens, nevertheless.
312 MEX-IT 2004.
Netherlands. Regarding the issue of permanent grave-rest, this is possible in a 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.

3.2.3 Norway: Why French Muslims Are Like Norwegian Humanists

The situation for Muslims in Norway is quite similar to that of The Netherlands. Norwegian municipalities, like their Dutch counterparts, take great 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. The public debate focuses rather on the hijab or forced marriage than on matters of death and burial. Accommodation in the cemetery functions rather 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 undeniable? Is it only then that it is clear what integration is about, namely, finding practical solutions? (my translation)

313 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 probably 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 in Norway Pakistani funeral committees (begravelseskomitéer) assist the families with the burial process. They can have 10 to 100 families as members. Their board consists out of four to five persons, often with high education or solid standing within the Oslo community. They come in three forms: arranged by particular mosques, private, or as committees aligned with particular cities in Pakistan. This type of organization assists families in a transnational context to navigate between Norwegian rules and Pakistani praxis. (Døving: 2005, 91-92).


315 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, July 27, 2009.

316 See Ghozlan, November 2004.
Yet, as a national research project\textsuperscript{317} 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 confirm such a wish. The section at Høybråten is seen as small, and the wish that Muslims themselves should manage this is prominent. (My translation)\textsuperscript{318}

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 Mecca are very inefficient.”\textsuperscript{319} The municipalities, particularly the smaller ones, do not always have the money, the technical capacity, or the will to accommodate Muslim wishes. Or there is a willingness to find solutions, but not by providing for a separate section.\textsuperscript{320} 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.”\textsuperscript{321}

This scepticism toward separate sections, discussed in more detail in Chapter 4, 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 (\textit{vigsling}) parts of a churchyard (\textit{kirkegård}) for religious communities outside the Lutheran faith. Section 5 in the new funeral act, on the other hand, mentions the possibility of consecrating (\textit{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

\textsuperscript{317} This research project, \textit{Livsfasesriter}, commissioned by the Council of Religious and Life Stance Communities, charts the challenges in terms of life rituals in Norway. See Plesner and Døving: 2009.
\textsuperscript{318} Plesner and Døving: 2009, 85.
\textsuperscript{320} \textit{Hamar Arbeiderblad}, 7 April 2009, no. 82. Monica Søberg.
\textsuperscript{321} These are the words of the church warden in Brummendal as referenced in the newspaper. The churchyard provides for Islamic graves, but not an entire section. \textit{Hamar Arbeidersblad}, 29 December 2012, “turned towards Mekka.” For similar ideas, see the hearings response in the Parish council Dovre, in Prop. 81L: p. 15.
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.”

3.2.3.1 Norwegian Humanist Association

The second group of burial challengers, humanists, have long been sceptical about the ideology of sameness and equality. To their mind, the default offer for burial, while free for all, is not as “equal for all.” As mentioned in the Introduction, the number of humanistic burials is few 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. Yet, analytically speaking, this comparison is relevant because both groups challenge aspects of the symbolic burial order across national contexts. 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 adaptation of 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, currently 15.3% of all Norwegian youths choose a humanistic confirmation. 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.

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322 Interview with a senior advisor in the Ministry of Government Administration, Reform and Church Affairs, 7 December 2012.
323 “Inequality in the grave” is the HEF’s official framing (Plesner and Døving: 2009, 81).
324 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, 590 in 2018. Email 20-11-2018 (Senior advisor HEF).
325 As a matter of empirical fact, French burial agents talked a lot about Muslims, whereas in Norway they talked about humanists instead.
326 Is the Norwegian state-organized religion model evoked differently with regard to different minorities?
327 The number is 15.3% of all 14-year-olds versus 78.2 % church confirmations (Church of Norway). For a good discussion of founding years and ideas of the HEF, see Knutsen: 2006, 22-53.
with a religious content in the ceremony.” 328 HEF offers its own certified burial ceremonial leaders.

Humanists find that, in the realm of burial, the influence of the church is still very strong. The Church of Norway is still in charge of 90.2% of all burials annually in Norway (2013 data), a small decline since 2003 when it was 94.4%.329 Three main points mark the HEF political agenda: First, they complain that, while there is a standard offer to talk with a priest on one’s deathbed in public hospitals, a similar offer to talk with representatives of other confessions is not available.330 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.331

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 promises to “to legally anchor the requirement of a neutral ceremonial room for burial and marriage in each municipality.” 332 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 heavily weighing arguments for changing today’s legislation. At the same time will we make accommodations that accommodate minorities.” 333

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

328 Retrieved from https://human.no/seremonier/gravferd/.
329 This involves a small decline since 2003 when it was 94.4%. See Tilstandsrapport for den Norske kirke: 2014, 21.
330 See Plesner and Døving: 2009, 80.
331 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.
332 Stortings Melding Staten og Den norske kirke: 2007-2008, 11-12. This is an announcement from the executive government (Regering) to the national assembly (Stortinget).
333 “(D)et ikke sees å foreligge tungveiende grunner for å endre dagens ordninger. Imidlertid skal det gjøres tilpasninger for å ivareta minoritetene.” Ibid, 11-12.
counties could apply. Yet, they redrew the offer when the last pot of 7 million in 2015 failed to generate sufficient demand.

The HEF’s most central - and third point - of complaint concerns the Lutheran ownership and administration of the cemeteries since 1996. In fact, three later advisory committees (2002, 2006, and 2013) discussed the question of burial administration and recommended municipal administration. Yet, each time the state maintained that the church should retain the responsibility. 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! Particularly in Oslo do cemetery workers object to such a demand. Therefore, the graveyard and burial’s agency, the city of Oslo (Gravferdsetaten I Oslo), now insists on having de-facto administrative responsibility over the cemeteries, since 1977. Nevertheless, despite this possibility for local solutions, the HEF and the Free Churches object on principle 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

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335 According to the main humanist representative on this matter, this should not be read as a lack of need, but results from insufficient dissemination of information and is a potential testimony to the little political will at the local level. Local politicians might be afraid to make choices that go against the status quo (email correspondence 11 November 2018 and phone conversation 4 November 2018).
337 This involved 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).
338 An important recurring argument after 1996 was that “the Church of Norway is professional enough to treat everyone equally” (NOU: 2006, 2, 136). In other words, this inequality is justified by procedural reasons, and those affected by it judge it to operate fairly.
339 Exceptions exist for those who have tasks unrelated to church functions (Funeral Act, Section 22).
340 This status has recently been reconfirmed. The graveyard and burial’s agency, City of Oslo, makes decisions regarding the daily activities. The parish council/Council of Bishops is responsible in the case of eventual complaints (email correspondence with Director Gravferdsetaten I Oslo, 27 November 2018).
341 The 1996 act allows for local solutions. The municipality can also assume the responsibility for the graveyard administration (NOU: 2013, 1, 212). In five municipalities, the responsibility has been shifted from the joint parish council to the municipality.
responsibility of the municipality to provide this service with neutral values as its point of departure.\textsuperscript{342} (my emphasis)

What arguments underlie 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 17 1996-1997, 7).

For part of the answer we have to go back to the (1982) \textit{Kirkelovutvalget} that preceded the 1996 change. As discussed in Section 2.3.3, the Ministry of Culture and Church Affairs\textsuperscript{343} aligned itself with the opinion of the minority of this Church Act Committee. It perceived cemeteries as a place where cultural and religious burial customs are conveyed. Their administration should therefore not be seen as a purely administrative and neutral matter. Central to this argumentation was the relevance of church traditions (Ot. Prp. No. 64 1994-1995, 43):

\begin{quote}
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. (my translation)
\end{quote}

Furthermore, the Ministry adds an argument about Christian burial customs and Christian cultural foundations (ibid.):


\textsuperscript{343} \textit{Kultur- og Kirkedepartementet}. This department is now, anno 2019, called the Culture Department.
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. (my translation)

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): Staten og Den norske kirke, 108-109)

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 2.3.3, 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.
3.3 Summary: 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 (Ha1) 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 carées 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 (Ha1). 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 behaviors 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 carées 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 carrée 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
The municipal case studies in the next chapter provide a discussion of three historical ‘exceptions’ (*Père la Chaise, 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. Yet, here the lack of *more* Muslim cemeteries remains a puzzle, complicating any notion of an Islamic pillar. In the Almere case study (Chapter 4), 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 Inger Furseth concludes regarding to the provisions for chaplains in prisons (2003), there is what we 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 asked for burial in Norway, as opposed to Dutch or French Moroccan and Turkish Muslims.\(^{344}\) 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 skepticism (this becomes more clear in Chapter 4). 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

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\(^{344}\) Pakistani Muslims early on sought to be buried in Norway rather than be repatriated.
seem to confirm such a reading. However, in this case I argue that the model in fact explains the outcomes too well (cf. Breemer: 2014). 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 fulfill a similar role as the Norwegian humanists. 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.

I allude here to the title of an article by Zolberg and Woon (1999): “How Spanish is like Islam.” There, they argue that Muslims in Europe evoke a similar conflict as the Spanish-speaking population does in the United States: Both arouse conflicts over the boundaries of citizenship, concerning degrees of religiosity in the first case and language as the boundary of identity in the second.
Chapter 4: Embedded Case Studies: Institutional and Discursive Responses to Burial Needs

4.1 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 3.346

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 leading research questions of this project. A more detailed analysis may be found in Chapters 5 and 6.

Each embedded case study addresses 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 for detailed descriptions of local

346 For France, why are there so many carées and several Muslim cemeteries? How can laïcité both prohibit and explain the existence of confessional sections? For The Netherlands, why is there only a single Muslim cemetery? For Norway, why there are no Muslim cemeteries at all and how to explain the change made in 1996
responses for each embedded case. And in the conclusion of this chapter, I summarize the findings in two tables, respectively.347

Burial professionals as well as Muslim/humanistic representatives usually do not go around asking themselves: “What would the institutional legacy of state-church relations want me to do?” Yet, they do refer to (normative) principles like: ‘treating Jews and Muslims equally.’ Or they rely on logics/scripts like: ‘We need to treat minorities well,’ ‘We want them to feel at home’ (se sentir chez eux), or simply the idea that ‘Religion should be private.’ Bowen’s definition of schemas captures this well: “sets of representations that process information and guide action” (2012, 357).

In order to allow respondents to talk as freely as possible, I avoided referring to terms such as secularism or religious governance.348 However, as the fieldwork evolved, I also came to pursue the opposite strategy: While grappling with the question why nobody was talking about secularism (except maybe in France), 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 do not consider a certain solution appropriate. This served to tease out counterarguments and objections. It occasionally also required long transcriptions. Sometimes my transcriptions show that respondents became unsure, but obviously it was not my intention to prove my own superiority. Rather, it serves to tap into the applied wisdom of institutional agents. And it serves to register possible emotions, hesitations, or assumed presumptions in relation to certain ideas or solutions chosen. In the case of secularism, Dutch and Norwegian respondents often had no answer ready; sometimes it upset them or annoyed them. But I fully recognize that the interview context is an unnatural situation where unfamiliar vocabulary can be intimidating.

In terms of the case structure, very different information was available. The material for Oslo did not lend itself to a discourse-analytic approach.349 The Paris case study, on the other hand, could be worked out in great detail. In France, it was

347 Table 4.5 summarizes the central decision-makers, initiators, and relevant Muslim/humanist or other interlocutors per municipality. Table 4.2, 4.3 and 4.4 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 (what they see it as being about), respectively.

348 I did not always succeed. In my very first round of interviews in 2008, then, the title of my project was “Secularism Revisited: A Comparative Study of Secularism as a Practice in The Netherlands, Norway and France.” Later on, I came to refer instead to religious and cultural diversity.

349 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.
not merely an embedded case, but one that contains three historical cases from the Paris region and a detailed transcription of interviews concerning the contemporary situation.

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. I thereby provide information on the municipal population in terms of ethnic or religious diversity (if available). Where relevant, I also sketch the political situation. I address as well the number of cemeteries, the municipal structures that govern the cemeteries\textsuperscript{350}, before addressing the relevant processes and actors involved.

The data for this chapter stem from qualitative semistructured interviews with open-ended questions collected during two rounds of fieldwork (see Section 1.4). I transcribed only the relevant passages. For reasons of space, I omitted the quotations in the original language, with some exceptions. Other sources of evidence include documentation, archival records, and participant observation. I joined a French Islamic undertaker one day on the job. And I was grateful to be part of an Islamic funeral in Lyon. For nearly every case study, I visited the cemetery and the office of the responsible decision-maker. Occasionally, this proved to be very informative. One example to illustrate captures the entire French social context in a nutshell.

Doing fieldwork in France can be trying. On my second field trip to Paris, after three weeks of what was supposed to be a four-week fieldwork travel I still had not obtained a single interview. Whereas getting an interview with a burial professional in Amsterdam or Oslo had been entirely unproblematic, the Parisian public servants were hard to persuade.\textsuperscript{351} I was told that I needed official appointments and an authoritative person to get access to the main burial institutions. And spontaneous visits were out of the question. But when, only a week before my scheduled departure, the respondent of my only scheduled interview declined, I

\textsuperscript{350} Technically speaking, my unit of analysis is the process leading to burial outcomes and to the relevant actors involved – not the actual actions of a municipality. Yet, the demarcation line between municipal context and embedded case becomes blurred. In all embedded cases, the main sets of regulations and processes are municipal in nature. This holds 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 refer to “the Amsterdam case study” instead of “the reasoning and actions of relevant agents in the embedded case study in Amsterdam.”

\textsuperscript{351} I finally managed to get a good interview with the highest administrator in Paris. This snowballed into a range of other good interviews, all in the last days. I thank Professor Riva Kastoryano for her help.
decided to risk humiliation. I took a bus to the cemetery of Thiais, which is one of the largest in Europe (after the Pantin cemetery). Covering a total of 103 hectares with 130 divisions, one 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. This opened into a large public vestibule, and thereafter I was directed to a small neighboring office, where I met with the conservator. 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. And why this 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. “Then they do not need to be bothered 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.

4.2 Dutch Embedded Cases

4.2.1 Amsterdam: A Public Solution

The city of Amsterdam is culturally very diverse. More than half its population consists of first- or second-generation migrants. In 2017, 84% of its citizens had Dutch citizenship, but more than half were migrants. Statistically speaking, one has a migrant

352 This is 53% of a total of 854,316 residents on 1 January 2018. See Jaarboek Amsterdam in Cijfers 2018.
status if the person itself or one of the parents was born abroad. The three largest standard migrant groups in The Netherlands in 2018 are Surinamese, people stemming from the Antilles as well as Moroccans and Turks. Originally, immigration came 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. 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. 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: 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 change 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 private cemeteries. 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).

353 The five private cemeteries are Buitenveldert, Vredenhof, Westergaarde begraafplaats en crematorium, Zorgvlied, Stichting St Barbara. The Nieuwe Ooster already had a special (albeit small) area for Muslims. The Noorderbegraafplaats has no Islamic provisions, though there were initiatives to create a Muslim parcel in the Roman Catholic cemetery of the Stichting St Barbara, Westgaarde and Zorgvlied.
In 2004, the municipality set up an advisory council for intercultural management to figure their wishes regarding death and burial. The respective project, entitled ‘What Is Your Last Wish?’ focused primarily on Turkish and Moroccan Muslims. 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 the 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.

As a follow-up, the municipal board installed a ‘Commission Islamic Burial in Amsterdam’ (CIBA), which had the task of formulating a common plan of action. This included a variety of interest groups, representatives of the main Muslim groups as well as the leadership of the municipal cemetery De Nieuwe Ooster (hereinafter DNO). The CIBA, furthermore, sought the support of a variety of smaller Muslim communities. Initially, the Surinamese-Pakistani organization Stichting Welzijn Moslims joined, but as I mention below, a religious difference of opinion led it its 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 him/herself a Muslim should be able to use the Islamic burial facility. No distinctions will be made between the different forms of Islam or ethnicities. The

355 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” (MEX-IT: 2004, 26). Last, they thought that burial according to Islamic law was problematic, since, in particular, the need for permanent grave-rest could not be honored.
356 For the description of this case, I rely in part on Harmsen: 2007, Chapter 7.
357 This included the large Muslim umbrella organizations like De Unie van Marrokkaanse Moskeen in Amsterdam en Omstreken (UMMAO), Milli Görüs Nederland as well Diyanet.
358 These included Stichting Fatima Al Zahra (representative of Shia Muslims), and Ahmadiya Lahore (ULAMON).
individual choice of the deceased Muslim to be buried on the respective cemetry should be the leading consideration.360

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. It was on this point that 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 the 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.” 361 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.362

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. However, concessions are never ‘permanent,’ though 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 allows 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 cemetry, on the other hand, should explore institutional options that could

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360 *Islamitisch Begraven in Amsterdam*: 2005, 8.
361 Quoted in Harmsen: 2007, 57.
362 Interview with the consultant of the national organization of cemeteries (LOB, *de Landelijke Organisatie van Begraafplaatsen*) August 2012.
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.363

Instead, it was decided that the DNO would create a large section for Muslims (7,000 m²), 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 this still left the legal responsibility for renewal of the lease with the individual lease-holder. A second option therefore suggested the use of 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.364 All remains in that case would go to an Islamic ‘bonefield’ (knekelveld) free from cost.365 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-house.

In 2006, the mayor and city council (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

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363 Islamitisch Begraven in Amsterdam: 2005, 10.
364 This applies to the case of a common grave, which has a minimal grave-rest of ten years, after which the grave-rest period cannot be renewed.
365 Knekelveld means literally ‘bonefield,’ i.e., a place where remaining bones are deposited. Another option was to have the remains collected and deposited in a small box, which in turn could be buried in the same grave but at a deeper level (again under the supervision of a mosque). Yet, this would be considerably costlier.
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.\footnote{Decision Mayor and City Council. Besluit Burgemeesters en Wethouders B&W, Gemeente Amsterdam, 14 February 2006, p. 3.}

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 results. 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.”\footnote{Een multifunctionele ruimte en wasgelegenheid, Islamitisch Begraven in Amsterdam: 2005, 10.}

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 praying together 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 for 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.\footnote{Aboutaleb became later the first Muslim mayor in The Netherlands in Rotterdam.} Aboutaleb’s successor, however, of Surinamese descent, was less interested.\footnote{I rely on the interview with the consultant of the national organization of graveyards (LOB), 20 August 2012.} Third, the conservative-liberal political
party (VVD) raised political objections in 2010, objectioning 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. 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 College van Burgemeesters en Wethouders) 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 terms ‘inclusive’ and ‘compensatory neutrality’ are not particularly clear in meaning. The essence of Dutch church-state relations consisted, according to him, of the fact that the government does not interfere with the content and doings of religion, and that no preferential treatment is allowed. In The Netherlands, we do not rely on exclusive neutrality as in France, he said, in which 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 washing pavilion.

370 At this time, the construction of the section and washing room are 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).
371 See the minutes of the Municipal Council of Directors Meeting: Raadscommissie Verslag, 2010, p. 11. I cannot provide direct quotations because the minutes do not include literal transcripts of the meeting.
4.2.2 The Hague: The Seven Gravefields of Westduin: ‘To everyone their own spot’

The Hague is the political capital of The Netherlands. According to a 2014 CBS estimate, half of its population (50.5%) has a migrant status, of which Turks make up 7.6%, Moroccans, 5.8%, Surinamese 9.2%, and the group from the Antilles 2.4%. Different from Amsterdam but similar to Almere, Surinamese here 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. The municipal cemeteries were “made independent” (verzelfstandigd). This means 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. (For the distinction ‘municipal independent,’ see Section 2.1.2.)

The oldest municipal cemetery, constructed in 1830, is the one on Kerkhoflaan, where the first Muslim section in The Netherlands was constructed beginning in 1930. 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 to maintain and respect the Islamic laws and to further 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 “separate from those who think differently and as much as possible in accordance

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373 http://denhaag.buurtmonitor.nl/
374 These include Begraafplaats Ter Navolging, Begraafplaats St. Petrus Banden, Begraafplaats Oud Eik en Duinen, Begraafplaats Crematorium Nieuw Eykenduynen, Begraafplaats St. Barbara.
375 Interview with juridical advisor concerning burial matters (Juridisch Adviesbureau) 10 August 2012.
with the Islamic laws.” On 9 December 1932, the municipality provided for a parcel of 10 m², demarcating the area with bushes and making a separate entrance for this part. Begin in the 1960s, the municipality also provided for a second section of similar dimensions. Currently, both sections are still intact on the municipal cemetery the Kerkhoflaan. In the 1980s, as a result of the larger influx of labor 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. Here, according to the head of Department of Cemeteries in The Hague, “to each mosque its spot.” (iedere moskee zijn eigen plekje).

In 1994, the Municipal Board of The Hague decided to allocate seven gravefields (graf akkers) to seven different mosques. Furthermore, it provided one field for Muslims who did not belong to any of these mosques. In my conversation 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)” 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.”

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 favor of this

377 Hulsman and Hulsman: 2008, 89. The quote is not well referenced but seems to have come from a magazine or news brochure: De Indische Verlofganger (4 November 1932), p. 241. Vereeniging perkoempoelan-islam voor een eigen islamitische bedehuis en begraafplaats.
378 Interview with the Director of Municipal Cemeteries, The Hague, 4 December 2008.
379 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.
380 Interview with the Director of Municipal Cemeteries, The Hague, 4 December 2008.
381 Letter RV54 (1994).
legal obligation and would have preferred the lawgiver leave 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 principle 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 caused the municipality to reorganize matters several years ago.382 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 form. 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 have to respect the laws of the land.

As a result 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 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.383 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).

383 This area is so far still empty.
Here's the institutional typography of the cemetery of Kerkhoflaan: scheme 4.

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)

In the second municipal cemetery, that of Westduin, there are separate Muslim fields for the seven mosques. In addition, there are three fields reserved for Muslims who do not belong to either of the mosques, and a section for all fetuses 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.” 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 up with him. As a result, no

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384 This is entirely schematic and does not mirror the actual form or position of the sections.
385 Association Ahle Soennat Wal Jamaat Hanafie, field 28; foundation Noeroel-Islam, field 29; foundation (stichting) Ahmadiyya Isha’at-i-Islam, field 30; foundation (stichting) Ahmadiyya Anjuman Isha’at Islam Nederland, field 31; foundation Faizul-Islam Ahle Soennat Wa Jama’at Hanafie, fields 33, 34; foundation Jamaat-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.
386 In The Netherlands, fetuses of this age are considered the medical ‘disposal,’ whereas according to Islam, they should be buried. Interview 4 December 2008.
written material was 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.

4.2.3 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 a little over 200,000 inhabitants 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 2.1.2).

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 all Sunni Muslims with different nationalities being allowed access. The current cemetery provides for about 140–150 concessions but can be extended if they run out of grave space.

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387 It is constructed on the bottom of what was previously a lake het ‘Ijsselmeer.’
The process of obtaining permission for the cemetery has been largely smooth. In the course of three years, the cemetery has been realized as part of a project to build a mosque (which was inaugurated in 2010).\textsuperscript{389} 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 churches or religious communities. “We are very well organized, so they trust us,” a board member said.\textsuperscript{390} The cemetery was financed by a part of the mosque budget, the budget for the mosque being in large part 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. They then founded Al Raza in 2000 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 \textit{Stichting Welzijn Muslims} (the Pakistani Muslims that left the platform in CIBA). This group had, in this case too, 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 neighborhood delayed the building process of the mosque. Ever since the start of their foundation, they had been under attack from a neighborhood 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 will diminish in value as a result of our mosque … The whole thing has cost us about 2.5 years.” It has also cost them a lot of money, not because of the legal procedures. Namely, Al Raza has won all 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

\textsuperscript{389} http://www.alraza.nl/
\textsuperscript{390} Interview with a Board Member of the foundation \textit{Almeerse Moslims}, Al Raza. 18 March 2009.
can thus – at least in principle – secure this themselves.\footnote{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.} Second, the municipality was forthcoming in the process. Third, \textit{Stichting van Almeerse Moslims 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.\footnote{“This is, of course, not how it ever goes elsewhere,” remarked a Director of the public cemetery in Dordrecht:}

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.\footnote{Very specific urban-planning circumstances in Almere, she added, had contributed to this opportunity to make the land available and to sell it for a modest price. Her skepticism was somewhat founded because Al Raza had originally been promised to obtain a small Islamic cemetery (the municipal document speaks of a ‘cemetery’ and not a ‘section’\footnote{within the cemetery of Almere Haven. 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 proposed instead 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 motivated its decision as follows:}}

\footnote{The price for a concession is EUR 7,500 for members of the foundation, EUR 8,500 for nonmembers. This includes all ritual aspects of the burial (washing ceremony, Islamic dress, room rental for the night wake, transportation, and interment). \url{https://www.ar-raza.com/begraafplaats}}

\footnote{\textit{Algemeene graven} can only be prolonged twice, and sometimes the bones are then buried within a large container grave among other non-Muslims. Or, he said, the remains are cremated. “This is an awful nightmare for any observant Muslim, of course, as resurrection becomes impossible.” Interview \textit{Almeerse Moslims}, 18 March 2009.}

\footnote{Email correspondence with the Director of the Graveyard Begraafplaats en Crematorium Essenhof, 30 March 2009.}

\footnote{RV-62/2006 Voorstel aan gemeenteraad Almere}
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.\textsuperscript{396}

In addition, they proposed selling the land below market price:\textsuperscript{397}

- 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.

\textbf{4.2.4 Summary Dutch Municipalities}

The cases discussed address the following primary field research questions: (1) What are the (materially) chosen institutional solutions? And how do burial decision-makers (discursively) substantiate these burial solutions? (2) 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.

\textit{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 these sections are understood and the degree of religious governance allotted the respective communities. There exist seven

\textsuperscript{396} RV-62/2006 Voorstel aan gemeenteraad Almere.
\textsuperscript{397} RV-63/2007 Voorstel aan gemeenteraad Almere.
gravefields (grafakkers) in the public cemetery in The Hague, each allocated to a specific mosque. These are understood to underlie full self-governance.398 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 decides on allocating graves. A publicly financed washing-house borders the Islamic section. It is understood (and legitimimized) 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 for 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 Corpse Disposal Act.399 Yet, the piece of land is a de-facto extension of the cemetery of Almere Stad (Begraafplaats Beatrix-park).400 A Dutch legal burial expert describes it as a ‘confessional section’ 401 ; similar to the status of the confessional sections in The Hague, agreements are vague.

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 ordained by Islamic custom) are the main motivations for choosing this private solution. Financial and urban-planning

398 The respective religious leaders decide who is buried there and what form the section should have.
399 More precisely, it corresponds to the right to a confessional cemetery (Art. 38) and the obligation of the municipality to sell the ground for a reasonable sum (Art. 40.3).
400 The Jewish cemetery, inaugurated in 2005, is also located at the cemetery of Beatrix Park.
401 Whether they are full-fledged private cemeteries or confessional sections within a public graveyard, all depends on the agreements made. As the Juridical Advisor in this domain distinguished, confessional sections come in three forms: a) usage, the group can use the area but abides by the rules of the municipality; b) maintenance, the group can decide much more, for example who can be buried there, although the municipality still has some claim; c) possession, the area is sold to the confessional group, in which case the municipality loses its rights over the soil. Yet, “what this entails in practice is hard to say because they often arrange these matters so half-heartedly. The parties involved are often unable to say what exactly the agreement entails.” Interview with Juridisch Adviesbureau 10 August 2012.
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 grave fields (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 Frames Used?

In none of the Dutch embedded case studies was secularism used as a term or framework. Nor is there a proxy. When asked explicitly about the way in which secularism affected their decisions and choice of solutions, respondents became annoyed or uncomfortable (transcription in Section 6.5.2).

In Almere, the offer of a private Islamic cemetery by the municipality was cast as a legal obligation and 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 all, thus downplaying the extent to which the Islamic community was being done favors. 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 frames the Muslims demand for burial accommodation were understood in light of the burial law, financial and urban planning concerns, but also to some extent that of integration and state-church relations.

4.3 Norwegian Embedded Cases

4.3.1 Støren: ‘Soft’ Sections and Individual Consecration

Støren is a village that lies in the mountains among agricultural lands in the Northern part of Norway, a half an hour’s train ride from Trondheim. Støren is the largest of four villages (Soknedal, Singsas og Budal), which 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. As a train station hub, the village of Støren was historically a place where workers come and go. The presence of industry and factories opened up the local community to an influx of foreign workers. 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. 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 in the news for its maltreatment of some of its labor force. In 2002, the labor unions alerted the police to the company’s breaking the labor laws. After a range of investigations by the labor unions in 2003, 2005, 2006, and 2011, the company reported lingering problems in 2011. Yet, despite the somewhat dubious

402 Interview with minister in Trondheim, previously a church minister in Støren. 17 October 2013.
403 The company was originally called Block Watne Hus and currently Støren treindustri.
404 The problems involved the duration of working hours (some people had to work more than 77 hours a week), the lack of permanent contracts, the refusal to pay overtime, and the low level of unionized organization.
standing of its factory and its (not entirely hospitable) employment policies, the village of Støren is positively described by one of its former church minister and dean of church 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 labor migrants and refugees with an eye toward permanent settlement.” This change in self-definition has brought with it, according to the present church warden of Støren, an increased sensitivity to respecting the religious and cultural affiliation of others. In my conversation with him, 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 of Støren has a special part for ‘other religions,’ which is (informally) separate from the main part. This special part was originally intended for “all other religious communities.” With a laugh my respondent explained it as a “common bag” (felles sek). He explained that the allocation to this special part occurs using the distinction “consecrated earth and nonconsecrated earth.” So, Catholics typically would be buried on 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 reconstruct the whole graveyard. First of all, the plans for the new area strove toward integrating the non-Christian part. And, 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 a neighboring 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

405 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/rena/7488022/
406 Interview and email Dean of Church in Trondheim and prost i Gaudal prosti. She was formerly working in Støren, 17 October 2013.
408 Interview with the church warden Støren, 18 October 2013.
seriously. The whole new part 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:

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 Section 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 Section 23 in the new 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 neighboring 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 him whether consecration mattered to the humanists. 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, namely, for those who take offense to being put in consecrated earth. In other words, the

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409 Letter from the joint Parish Council Støren, 26 September 2013: “Invitasjon til dialogmøte om gravferdssikker for tros-og livssynssamfunn i Midtre Gauldal kommune.”
410 Interview with the Burial Representative and Ceremonial Leader HEF, Trondheim, 17 October 2013.
opinions differed within the humanist organization. The real issue, however, he underlined, is that the church is trying to maintain its grip on society by monopolizing death. It was not respectful that a hegemonic church obtains 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.” I asked if he thought that HEF still had a battle to fight on the principled point, but he was very skeptical to 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 part of society where the church had 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” – and he looked for the correct word, ‘immigrant,’ ‘non-Norwegians,’ ‘a different culture’⁴¹¹ – “right now they are sending their dead back home. But in a next generation, they will want to be integrated here, that’s 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.’” He added:

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.

⁴¹¹ ‘Innvandere,’ ‘ikke norsk,’ ‘annet kultur.’
He also told me that the bishop had visited Støren and had 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 “no divisions, all unified under the soil” (like in Elverum), but he did not want too strong divisions, either.

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.”

4.3.2 Elverum: Individual Consecration as a Solution

Elverum is a small but strongly growing 412 municipality with about 21,000 inhabitants. 413 It obtained the status of city in 1996. And 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

412 Over the last 30 years, Elverum has grown more rapidly than its neighboring municipalities and on average more than municipalities in the entire country. I rely here on Elverum mot 2013 Kommuneplan 2010-2022 samfunnsdelen.
413 For information, see https://www.ssb.no/kommunefakta/elverum
total population). This number is twice as high as that of 1995. Elverum refers to itself as a “multicultural” as well as an “international” municipality, largely because of the migrants who came to in Elverum in the 1980s. Since the first Vietnamese boat refugees, according to a municipal report, Elverum has “circa 85% more refugees than the average Norwegian municipality.” 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, there was a wave of refugees in 1993 from Bosnia. In 1995, there were a total of 313 refugees in Elverum, including persons from Afghanistan, Burundi, Congo, and Chechenia.

The growing immigrant and refugee population gave rise to a variety of municipal reports on the status of refugees and the development of a “holistic integration plan” aiming for “inclusion and pluralistic integration” (Helhetlig Integreringsplan: 2008, 5-6) This report says nothing about cemeteries and burial needs, but it does emphasize the general need for adaptations. Relying on a text from the Department of Foreigners (Utlendingsdirektoratet), on p. 5 and 6 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 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 labor 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.

But what does an “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 are buried. They lie among all others, in no special direction. The few other Muslims who have passed away in this municipality were repatriated or

414 Helhetlig integreringsplan 2008, pp. 8 and 11.
buried in Oslo.\textsuperscript{419} 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\textsuperscript{420}, who in a local newspaper article explains: “We as Christians do not have a monopoly over [funeral] rituals.”\textsuperscript{421} 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. I asked him what kind of solutions he could envision for Muslims and humanists. His response begins along a very general vein:

We should remember that the churchyard \textit{[kirkegård]} is also a graveyard \textit{[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 the Islamic circles they are more skeptical 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.” 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

\textsuperscript{419} This was the case at the time of my second conversation in 2009.

\textsuperscript{420} He is minister of church (sogneprest) in Elverum and dean of church (prost) i Sør Østerdal prosti.

\textsuperscript{421} Hamar Arbeiderblad, 7 April 2009, nr. 82. Monica Søberg, Vil viksle hvert grav før begravelse (“will bless each grave before burial”).
every effort to ensure that minorities do not suffer any form of injustice. (...). For this reason we also have such a fabulous economical 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 is the case with humanists? I have heard complaints from humanists about the fact that a church is in charge of a public domain.”

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 (kirkegården). (...) 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. He answers:

Well, then, let me be even more practical: How do we solve this in the cemetery (gravplassen)? 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 (kirkegården) for religious purposes. And then the humanists protested: No, we do not want this. That we understand, (...) but today, because of the humanists – but even more so because of other religious communities – we should stop consecrating the whole churchyard (kirkegården). 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:

But perhaps we can also find another solution, which is what has partly been done in Oslo. There, the Joint Parish Council 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

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422 Interview Senior Advisor in the HEF, 22 October 2008.
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?” He answers:

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 favor of this strategy:

I believe it will strengthen integration in society if we instead could 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 favor of confessional sections. He believes this solution is viable only for larger cities with sufficient numbers 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 agrees with him as well as people in most rural areas. 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 belonging component, he explains that, “The belonging component will always be more developed in the rural areas.” 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
\textit{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 (\textit{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?\footnote{Quote from private email correspondence September 2013.}

In other words, he makes the empirical claim that in rural areas there is a stronger sense of belonging to the church and to the churchyard. He connects this thought to a prescriptive claim that we should avoid demarcated areas, which only attest to segregation.\footnote{This is akin to the French respondent who compared confessional sections with ghettos.} 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 (1) 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 do not need to be frustrated. And if they 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),\footnote{KA is a church employers organization (\textit{Kirkelig arbeidsgiver og interesseorganisasjon}) that works on behalf of church organs and church activities (like burial). See http://www.ka.no/om-ka} 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 “favor the secularist.”\footnote{He did not agree with the humanists that the church administration favors the Lutheran constituency.} Like the church minister, he also dismissed providing for separate sections. He was “not in favor of a patchblanket strategy: We should not segregate minorities in the churchyard.
He also fiercely rejected my suggestion to provide 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 an 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.” 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 that the soil is consecrated. 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 it is not the case that humanist can have their own graveyards everywhere. From a pure 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 humanist are satisfied. (...) Ok, we have to adapt to that situation. (...) It is the best solution to consecrate each grave individually.

He makes here three points: (1) Humanists do care about consecration. (2) Rather than contesting the hegemonic position of the church of Norway, humanist realize that they are better off “adapting to the situation.” (3) He simply reiterates the argument that humanists can be accommodated within his framework. It remains to him an issue of consecrating the cemetery.

“Ok,” I answered, “I understand that humanists can theoretically 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.

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427 Interview with Avdelingssjef i Kirkelig arbeidsgiver og interesseorganisasjon, KA. 23 October 2008. He referred to a “lappe teppe strategi”.
428 In fact, by law humanists are not allowed to have their own cemetery, unlike registered religious communities. But he might have meant here the humanist sections.
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 fairytales 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 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.

### 4.3.3 Oslo: Public Solutions and Negotiations in Practice

Oslo has three areas for Islamic burial. The first Muslim section dates from the early 1970s in the cemetery of Gamlebyen, 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 on 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 Cora Alexandra Døving provides an interesting discussion from a meeting on the construction of an Islamic parcel on *Høybråten kirkegård*. Present at the meeting were the director of the graveyard and burial agency, the city of Oslo (*Gravferdsetaten I Oslo*), 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 area. 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. 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 this is customary in Norway. This is more complex according to 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 at least, the Muslims had already started to make small forms of demarcations around the 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 informational 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 wanted 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. It was constrained by a lack of sufficient burial space and a pragmatic concern with mowing the grass.

4.3.4 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 2 and 3 I already gave parts of the answer why the 1996 Funeral Act was adapted. In Chapter 2, I showed how the administrative responsibilities over the cemeteries were historically divided over both confessional as well as municipal institutions (Section 2.3.3).431 There was furthermore variation over time in the legal framework and within Norway between villages and cities. With this fact in mind, in Chapter 3 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, backed 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 be other reasons, too, one of which, as I present here, is at least partially a political one.

431 Who was to employ the church warden? Often these institutions were themselves a mixture of representatives from the church as well as the municipality.
that entails the decision to give the cemeteries to the local church as part of the tasks of the Joint Parish Council (Section 3.2.3). This occurs 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.

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 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. (NOU: 1989, 5, 7)

The Joint Parish Council will 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 will bear the employer responsibility for most of the church positions. Church employees, who today are municipal employees, will 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.nr.46: 1995-1996, 2)

On the other hand, the committee thought, this increasing church independence should not lead to a cutting of the ties between church and local community. Quite 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 will 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)

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. 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, 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 continuing intertwining with public institutions (in this case, the public cemetery – ‘establishment’) as well as increasing the independence and separation of the local church from the municipality within the state church framework (‘disestablishment’). See also Section 2.3.3, where I underscored this latter point as an essential ingredient of the Norwegian mode of religious governance.

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). The representation/administration of the church is deeply intertwined with that of the municipality. In Norway, as in Denmark, but unlike Sweden, this intertwining is very strong at the local level. 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 was seen in Section 2.3.3 the church warden was drawn into the moral project of the state and church. And there are examples of an opposite movement of

432 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.
433 We can note a mixture of motives: the argument of tradition and the political and possible theological reasons for empowering a local church.
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.434 

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 3.2.3.1). It is not the result of 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.435

4.3.4 Summary Norwegian Municipalities

The cases discussed address the following primary field research questions: (1) What are the (materially) chosen institutional solutions? And (discursively) how do burial decision-makers understand these burial solutions? (2) 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 Institutional Solutions Are Chosen?

In Oslo, the municipal agency supervising graveyards and burials (Gravferdsetaten), has since 1977 had the practical responsibility over these matters (see Section 3.2.3.1). In contrast to the 1996 decision to transfer this right to the Joint Parish Council, it has asked for an exception to this rule. The solution was to establish confessional sections in the public cemetery. The city of Elverum was chosen to investigate one often-heard claim: People from rural areas suggested that their

434 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.

435 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.
solutions 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 to individually consecrate 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, 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 consecration grave by grave 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 church warden

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436 Subsumed under the need for neutral ceremonial rooms and the removal of principled inequality.
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/Frames?

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. “Exactly 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 6).

4.4 French Embedded Cases

4.4.1 Paris: Historical Examples and Contemporary Governance

Paris is one of the most multicultural areas in the entire world. 437 334,566 foreigners (étrangers), equal to 15% of the Parisian population, were living there in January 2019.438 The category of étranger includes those who reside in France but do not have French nationality. 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

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437 It falls in the region of l’Île de France and Department of Paris (up to 1986 Department de la Seine).
a foreign nationality who can acquire French nationality in the course of their life. A total of 455,633 persons (20.3%) of the total population are considered immigrants according to the website of the city council. The status of étranger is thus not a lifelong designation as one can acquire French citizenship over time. Yet, one stays an immigré for life.

The twenty cemeteries in the Paris region are administered and regulated according to an administrative and political schedule. At the top of the political hierarchy we find the mayor of Paris, in 2019 Anne Higaldo, 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,’ which includes le Service des cimetières, the primary administrative body that governs all decisions concerning the cemeteries. It oversees in turn the eight offices that tend to the everyday operations occurring in the twenty graveyards of Paris. 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, there is a relevant municipal decree that 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 is approximate. The French census does not gather information on religion or ethnic affiliation, but 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 take off (Renard: 2004, 54), due in part because of the

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439 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 petite 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.

440 These include (1) public space, (2) economics and social life, (3) services to its citizens, (4) support and application of the other directions.

441 Direction des Espaces Verts et de l’Environnement (DEVE).

442 Code Général des Collectivités Territoriales and règlement général des cimetières parisiens 2005.
active recruitment of workers from the North African colonies and protectorates (Algeria, Morocco, and Tunisia) by the French industry.443 France was one of the first European countries to actively recruit labor abroad (Bowen: 2006, 66). Also, in 1905 controls on migration from Algeria were 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.444

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 the 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 in the cemetery of Thiais was installed. 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 in the Parisian cemeteries until 1882 (Nunez: 2011, 17).

4.4.1.1 Historical Examples in the Paris Region

In the following discussion, I forgo an analysis of the provisions for military sections445 and Jewish provisions. Instead, I would like to discuss the cemetery of Père-Lachaise, which allowed the first formal Muslim enclosure in France, namely, that of Bobigny, which for a long period was the only Muslim cemetery on mainland France; and Thiais, which is today the most important cemetery with Muslim sections and where, in 1957, France informally created a Muslim division. Taken together,

443 E.g., in Marseille oil and sugar refineries recruited Kabyles (a Berber people from northeastern Algeria) to undermine the European immigrant workers who went on strike (Maussen: 2009, 68).
444 D’Adler (2005, 64). 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, Tunisia, and Algeria (ibid., 280).
445 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 here.
they provide a relevant range of historical examples for the period 1857–1957. The last part of the case study addresses a contemporary vignette of the ways in which 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 on the Muslim cemetery of Bobigny, and on Aggoun and Petit on Thiais. The contemporary discussion is based on interviews and on-site visits.

4.4.1.1.1 Père-Lachaise: L’enclos musulman Islamic Enclosures

The city of Paris never had a cemetery dedicated solely to one confession (apart from some Catholic cemeteries). Rather, until their prohibition in 1881, it allowed for confessional enclosures, les enclos confessionnels. Père-Lachaise opened in 1804, and the first Jewish enclosure was created in 1809. As Paris’ most prestigious and explicitly laïc cemetery, the marks of Catholicism were nevertheless visible (Nunez: 2011, 15). A large Catholic chapel, paid for by private funds, has marked the esthetic 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). Thus, from its very inception, Père-Lachaise was

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446 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 Marseille and Ile de reunion. 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 (Renard: 2000, 147-150). For a detailed discussion, see Petit (2006, 115).


449 I rely on interviews with the conservators of the cemeteries of Pantin (3 October 2012) and Thiais (2 October 2012) and the highest administrator of the Service des cimetières (9 October 2012) at Père-Lachaise.

450 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 municipal monopoly over the ownership and management of the cemeteries is still in place today.
laic as well as Catholic, even while allowing for confessional parts in line with the Napoleon 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.\(^{451}\) 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, diplomats, military men as well as scientists, religious leaders, tradesmen, aimed to improve the relationship between France/Europe and ‘the orient.’\(^{452}\) 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 (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 1\(^{st}\), who requested a burial area for Muslims residing in Paris or those who died while passing through France. Napoleon III responded favorably 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* (kind 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.\(^{453}\)

The *Prefecture de la Seine* made an area of 3260 m\(^2\) available in the 85\(^{st}\) 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,

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\(^{451}\) Earlier plans were present in the treaty of Saint de Saint-Germain-en Laye in 1682 (Telhine: 2010, 52).

\(^{452}\) They provide information and assist travelers to the orient with the journal *La revue de l’Orient*.

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.\textsuperscript{454} 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, but the municipality of Paris decided to use the space for a depository and expanding the Jewish enclosure, which had run out of space. Then, as a result 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, a hedge replaced it. A note by the general inspector of the cemeteries\textsuperscript{455} invited the Department of Work (\textit{le direction des travaux}) in reference to the 1881 law:

\begin{quote}
(…) 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.\textsuperscript{456}
\end{quote}

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 asked to obtain the authorization to clean the Muslim enclosure but never did. The result was that the mosque became dilapidated, and even after demolishment, it was never rebuilt. By now, during World War I, Turkey and France had become enemies (Telhine: 2010, 19).

Today, only 487 m\(^2\) remains of this large area, still surrounded by a one-meter-high hedge. On the mosque’s former location (currently outside the terrain of

\textsuperscript{454} AdP, VD4 10, pièce 2916: arrêté préfectoral du 29 novembre 1856 autorisant l’ouverture d’un cimetière musulman, referenced in Nunez (2011, 19).
\textsuperscript{455} L’inspection générale des cimetières de la ville de Paris. The note is dated 7 December 1882.
\textsuperscript{456} This is quoted in Telhine (2010, 65).
the remaining 487 m²), there is now a chapel for a Dominican General⁴⁵⁷ 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).

4.4.1.1.2 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 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. But, 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 wordings – 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 (Maussen: 2009, 67). Also, during this period France was 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. 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.

In 1920, the French government charged the Society of Pious Trusts and Islamic Holy Places with the task of creating a Muslim institute in Paris and helping to realize the construction of a Paris mosque. To symbolize France as a Muslim power and to recognize the sacrifices made by the fallen Muslim soldiers in the 1914 war, the government wanted to construct this prestigious edifice. The mosque was subsequently built between 1922-1926 and inaugurated in 1926 in a grandiose ceremony with 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:

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.

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

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458 For discussion on this issue, see Maussen (2009: 67).
459 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.
460 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.
461 Cette fondation traduit notre affecication fraternelle pour les populations musulmans qui font partie de notre empire colonial (…) Depuis qu’elle a mis pied sur le sol de l’Afrique, reprenant l’oeuvre civilisatrice dont la Rome antique lui a transmit la tradition, la France est devenue une grande puissance musulmane (cited in Maussen: 2009, 78, who references Granet: 1993, 28).
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, cure, and control (soigner et surveiller), which we then see replicated in the construction of a Muslim hospital and cemetery. The idea for a Muslim hospital was born (D’Adler: 2005, 73) during the celebrations of the inauguration of the Grand mosque. Members of the Parisian Municipal Board like Pierre Godin argued for erection of a Franco-Muslim hospital to honor the Muslims who 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 department without his approval (D’Adler: 2005, 75). Today, the hospital called 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:

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.462

Yet there was 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 Montreuil also objected. Yet, the department dismissed all objections and inaugurated the cemetery by a modest ceremony on June 1937 without any high officials present.

The cemetery extended over 3 hectares, containing around 6000 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 (D’Adler: 2005, 84). Although confessional cemeteries had been prohibited since 1804 and 1881, the creation of private special cemeteries (in this case, a hospital cemetery) was not uncommon.463 The hospital fell until 1961 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 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 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, remarks Petit, 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 ”gave it its very distinct confessional character” and “exceptional status” (statut dérogatoire).464

This became problematic only in 1989 (the year of the first headscarf affair in France) when the general inspection of the Ministry of Internal Affairs465 took a

463 Chaïb (2000, 168) mentions the hospitals Paul-Brousse and psychiatric hospital Villejuif in the departement of the Seine, which were also authorized to have a common special cemetery.
465 L’inspection générale de l’administration du ministère de l’Intérieur.
survey and subsequently published a report suggesting the abandonment of the “exceptional status” of the cemetery. It proposed instead to connect 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, but 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). 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 (cultuel), for which the union does not bear any responsibility; on the other side, the cemetery.467

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. The older entrance with a subtle Islamic outlook looks out onto a courtyard with the mosque at the end.

4.4.1.1.3 Thiais

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466 These are Petit’s words. I would like to 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.” (113) Either way, they suggest how a contemporary focus on laïcité results in critique of the institutional format of this historical cemetery.

467 L’espace a donc été séparé en deux: d’un coté le lieu de prière, privé, cultuel, dont il n’a absolument pas de responsabilité et de l’autre, le cimetière (Petit: 2006, 112).
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 the French government, “confessional regroupings in the interbellum period are discretely allowed for in the public cemeteries” (Nunez: 2011, 28). 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 to create a Muslim cemetery in an area more distant from Paris”\textsuperscript{468}, 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 was in that case not – like today – in the direction of Mecca. It pertained to regular concessions issued for five 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 \textit{harkis} or \textit{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 in the time thereafter. As Laurence and Vaisse (2006, 142) note, for this reason a range of de facto government accommodations of the practical religious needs of Muslims were made since the mid-1970s. 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 (\textit{arrête prefectural}),\textsuperscript{469} 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 (\textit{divisions}) along 18 avenues and is informally referred to as the “cemetry of the poor.” It used to contain a large set of common graves (\textit{les faux communes}), that is, graves for the destitute. Furthermore, it is known for the large

\textsuperscript{469} I have researched in the archives of Paris (\textit{les Archives de Paris}) and found no traces of this decision. Nor did the conservator of Thiais or any administrators know the justifications given.
variety of cultural and confessional divisions. Some judge it negatively precisely because of that diversity.  

Now a look at the contemporary reality of Parisian cemeteries. Thiais 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 the majority of Jews in Paris are buried at the cemeteries of Pantin and Bagneux. There are at least six different types of Muslims sections. According to Petit, they are spread out over 15 different divisions: a mixed Muslim section, the largest (81, 89, 97), where Muslims from a 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 “in reality” (dans les faîtes), one can ask how much, really, the cemetery of Thiais differs from De Nieuwe Ooster (see the Amsterdam case study)?

4.4.1.2 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 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.

470 See the quotation about the ghettoization of the cemetery in Chapter 3.
471 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 11 divisions (74, 81, 89, 91, 93, 97, 100, 101, 103, 109).
472 This is a very small regrouping of Albanian Muslims that surround the grave of an Albanian king.
In my conversation with him, I discussed the contemporary contradictions that exist: 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. My respondent opens the interview by saying that, at the moment in history “when the old funeral laws were dismissed as a result of a hard regime of laïcité (laïcité dur),” one part of France was occupied by Germany. Everywhere in France cemeteries were removed from 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 strictly prohibited. “That is really quite unbelievable,” he says and 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.” Previously, 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 cemeteries – sometimes in the pits. After the French Revolution, the cemeteries become municipal and laic. “This municipal system initially integrated the various religions.” What he means but does not further explain is that the introduction of the Napoleon Code 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 returned to 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, all that was legal between 1804 and 1881 now became illegal. 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 what

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473 He refers to the legal changes of the Third Republic in 1881.
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 need 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 then 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 region of Paris. “But new segments of French society, different Asian groups with strong desires for special sections, are making demands on us. They have such different burial customs, that not regrouping them together would lead to large problems in the cemetery.” “So,” I ask, “should we legalize these sections?” 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 to 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 Machelon Report’s first suggestion to provide for a legal framework. However, the report’s second suggestion, 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 compris*) 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 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.

“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 such a place is available. He cannot ask them: “Are you Jewish?” If he observes that, in all likelihood, the family is not Jewish, he will try 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 will try to avoid having a Catholic in the Jewish section?” But 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 (laicard) 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 (donner satisfaction) but within certain limits. 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 we then, on top of that, have to accommodate special subdenominations within a religion, it 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 family’s wish and the will of a religious community occurs. “Are you afraid one day to really transgress laïcité?” I ask him. “Well, if you follow the text 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 text 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:

Well, 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 were 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, imagine a pure laic integrationist (un intégriste laïc, pur et dur) 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.” But, as he explained, there are other things. As a high functionary, if he is condemned, he gets shelved (mis au placard.)

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. However, unfortunately, there are people who think they are entitled to more respect than others regarding their religion. They sometimes exert pressure in order 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 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,” she answers, “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.” “And anybody can be buried there?” I ask. “Theoretically everybody must be able to be buried there. They were created as a result of personal pressures and exist today (…). 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 period where people bought an enormous amount of concessions. There were no real limits, so they bought a whole row (typically 10 concessions) (un ligne) and thus secured a place for whole 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?” “No,” she replied:

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 allowed to say ‘This person is a Muslim, Jewish, Catholic,’ (…). So, we give it codes ‘1, 2, 3’ and colors to avoid giving it names.”

### 4.4.2 Montreuil

Montreuil is a densely populated municipality and suburb in the Paris district, with somewhat over 100,000 inhabitants.\(^{474}\) Informally called Montreuil-sous-Bois and part of the Departement of Seine-Saint-Denis,\(^{475}\) 25.5% of its population has an immigrant status (*immigrées*), i.e., people born abroad but residing in France. 19.4% have a foreign nationality (*étranger*), the largest groups of which are the Algerians,

\(^{474}\) It has a total of 104,748 habitants on January 2017. http://www.montreuil.fr/la-ville/population/

\(^{475}\) It is part of the region of Ile-de-France and the arrondissement of Bobigny.
Portuguese, and large numbers coming from Mali, Morocco, Tunis, and Italy. The presence of those from Mali, estimated to be somewhere between 6,000 to 10,000 led to the nickname of “Mali-sous-Bois” or "Bamako-sur-Seine" (the second largest Malian town). 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. Communist until 2008, thereafter shortly led by a member of the Ecologist Party, in the municipal election of 2014 it once again chose a Communist mayor.

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 Muslims rights, he is accused by others of being an ‘ultrasecularist’ (ultra-laicard) and Islamophob. In what follows, I look at some of his municipal decisions regarding to the public presence of organized religion (e.g., cemeteries, public financing of houses of worship, etc.). First, a closer look at some of these decisions addresses 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

476 See the website http://www.montreuil.fr/la-ville/population/. Also see the article at http://lepoivron.free.fr/article.php3?id_article=217 While the numbers mentioned are estimates from 1999 and 2005, we can still derive some approximate idea of the largest groups of foreigners. 477 http://www.lexpress.fr/region/mali-sous-bois_484282.html?utm_medium=maill_sous_bois 478 Le Monde, 25 January 2014. ‘Les derniers bastions Communistes d’Ile-de-France resistant,’ by Desmoulières, R.B. 479 Dominique Voyne was previously mayor. Patrice Bessac (Front de Gauche) became mayor in 2019. 480 He was a member of the Communist Party until 1996. 481 As an article in the Muslim magazine and blog Oumma.com mentions: “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.” See http://oumma.com/13049/ultra-laicard-jean-pierre-brard-drague-les-musulmans 482 I would most certainly not support the description of him as Islamophobic.
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 one office. They fall under the direction 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 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.” The Islamic section is located in gravefield 1-18 and is surrounded by a (still low) hedge separating it out from the other parts of the cemetery. The graves are situated in the direction of Mecca, yet 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 where Mecca was. After the first internment, several imams had spent an entire Sunday figuring out in exactly what direction Mecca lay. The family had accepted the mistake, the assistant said,

483 Interview 4 October 2012 with the administrative leader of the civil services and cemetery services (responsable du service état civil/ cimetière) and her assistant of the Office of Conservation (adjoint du Bureaux des conservations), which is responsible for the everyday activities of cemeteries.

484 Interview with the former mayor of Montreuil, 10 October 2012.
because the deceased was not 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. 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). A tall and 1.5 meter high hedge surrounds the Jewish sections in the new cemetery. This separates it entirely from the rest of the cemetery. The assistant (once more discretely) tells me they are 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, as a result of families buying graves in advance (achat d’avance). 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. Yet, he was not very interested in the topic of cemeteries. However, 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, to which he will return several times in the conversation, is one of five decisions made by the Council of State (Conseil d’État) in July 2011, which shed new light on the interpretation of the 1905 law. It 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 for building a mosque. For the symbolic amount of EUR 1 a year the federation leases the land for a period of 99 years. If after

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485 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.” Conducted during a walk over the cemetery with the Assistant of the Office of Conservation, 4 October 2012, Montreuil.


487 CE, 19 juillet 2011, Mme V., n° 320796.

488 Four of the legal cases share a common contestation around the decision of local authorities to support a project of a religious community, motivated by that of the general interest. http://www.conseil-etat.fr/fr/dossiers-thematiques/laicite-loi-sur-la-separation-des-eglises-et-de-l-etat.html, accessed January 2014.

489 This concerns la Fédération Cultuelle des Associations Musulmanes de Montreuil.
this period the lease is not prolonged, the city council once again becomes the owner of the soil and all things build 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 it “was possible to derogate from the principle of separation of church and state for granting certain aid to facilitate the activities and operation of certain cults.”

The constitutional principle of *laïcité* does not in and of itself prohibit the possibility of certain forms of support toward the activities and or equipment of organized religions (*des cultes*) – if in the general interest and as specified by law.

“Why have I done that?” the mayor asks rhetorically. And then he tells me about the strong opposition he faced from the people of the neighborhood when constructing the mosque. He was also under fire from the extreme right. Locally as well as at a national level discourse they claimed that the peppercorn rents violated state neutrality.

The mayor explains:

> Well, we have to manage the problems of today in the light of the 1905 law, in its spirit. At the time 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.

He added, now revealing his Marxist background, “Why have religious freedom if the material conditions for expressing this freedom are lacking?” In other words, he finds

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490 This concerns the elected representative of the National Republican Movement (le Mouvement national républicain, MNR), Patricia Vayssière.

491 Second, Article L.1311-2 of the General Code of Local Entities empowered local authorities to authorize a long-term ‘administrative’ lease under Article L.451-1 of the Rural Code. The conditions of the lease and the fact that the leaseholder was a nonprofit organization allowed for the peppercorn rent. Because the local authority would become the owner of the building upon expiration of the lease, the peppercorn rent was not seen as a disguised subsidy of religion. See Case Notes *Conseil d'État: Judgment No. 320796/2011.*

492 *Conseil d’État Assemblée, 19/07/2011, no. 320796, Publié au recueil Lebon.* “Le principe constitutionnel de laïcité ne fait pas par lui-même obstacle à l’octroi de certaines aides à des activités ou des équipements dépendant des cultes, dans l’intéret général et dans les conditions définies par loi.”

493 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 Figaro* 04-05-2011. http://www.lefigaro.fr/flash-actu/2011/04/05/97001-20110405FILWWW00432-laicite-le-pen-denonce-les-propositions.php
room within the 1905 law to accommodate Muslims’ need for a house of worship and to let them catch up.

And when 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 rich. 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. I asked him why he has no problems providing for a carré musulman.

For me as mayor – what 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.” 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 favor 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 [rabbi] 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 phantasme à eux). 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. 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 honor 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. You have fifty other places where you can put them!’

494 But if one day they were 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 will use those spots.”
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 up! Those are just pieces of vegetation, not religious symbols.”

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 what 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. I ask, “what would be beyond the acceptable then?” The mayor answers:

Burial without a coffin (…). Muslims they have to obey 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] 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

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495 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. She: “In the letters of the prefecture they remind us that we have the right to group graves together (le droit de regroupement). They encourage us to do that, but they also remind us of the obligation to respect laïcité at the same time. … It is true, it is not entirely clear.” He: “It is a delicate subject. … We sometimes make decisions without really making them.”
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. These 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 seen as 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 (vous êtes bien Cartesian), 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 and on the other hand you answer me with the freedom of religious practice of the 1905 law as the overruling motivation.” “I understand that this is part
of the contradictions. But there is a saying dating from the revolution which says: ‘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 not is, as the mayor himself acknowledged, in some cases “entirely subjective.” Second, the mayor maintains local order and sets the rules. Third, the mayor gives little thought to contradictions. In fact, as I learn further on in 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 known 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 extreme right (...). We certainly should not change the law.

Thus, for him, the preferred solution was to leave the letter of the laws 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, we try 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 in the preamble: ‘The French Republic is laic.’ 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 it 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 (son sect). He was for the abandonment of laïcité. That is why Sarkozy chose him. But his report is now forgotten. (...) Buried and dead! [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.
“What about private confessional cemeteries?” I asked. “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 an untenable thought. You know we chased the nuns out of the public hospital!” I nodded and said: “Yes, but the question is rather why if the hospital is public 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 online, he promised a Muslim cemetery to potential voters during his recent run for the legislative elections of Montreuil and Bagnolet in June 2012.496

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 advance further. I am committing myself to constructing a large Muslim cemetery for Montreuil and Bagnolet, with at least 3,000 places, 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 that aim at stigmatizing the Muslim community. Laïcité is already in the law. There is no need to reopen absurd debates making Muslims the scape-goat.

In the region Rhône Alpes, a region the size of The Netherlands and with a population larger than that of Norway (5.5 million), there are eight départementes, one of which is le Département Rhône (nr. 69). The region Rhône Alpes has one of the highest densities of Muslim citizens in France (largely of North African and Algerian origin) with an estimated total of 600,000. 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.” 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 as a result of the closure and 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 in 1984 by more violence in the neighboring suburb of Vénissieux 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” and its socialist mayor Gérard Collomb (anno 2019), 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, as a 2004 commission report reveals, there remains a strong persistence of “negationism” in some French Universities, particularly Lyon III. As early as 1970, a professor of literary theory at Lyons II (Robert Faurisson) openly denied the Holocaust, stimulating a range of works published on Hitler and gas chambers. As the

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497 France is divided in 26 regions, 21 of which are in mainland France. Each region is divided in départements.
498 The “Rapport sur les Carrés Musulmans dans le Département du Rhone” estimates this to be 10% for Rhone D’Alpes.
Negationism first mobilized among right-wing intellectuals with an already established academic standing and became popular at universities. One of the report’s concrete political results was Bruno Gollnisch’s temporary expulsion from the university. Gollnisch is a prominent Front National (FN) leader and Professor of Japanese at Lyon III. Adding to Lyon’s reputation as the “world capital of negationism,” 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.” Propelled by a social atmosphere that heavily politicizes Islam and links it to terrorism, working-class Muslim communities are increasingly distrustful of the state and redraw into their own communities. To this are coupled 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. Tellingly, most Islamic organizations are headquartered in the area of Villeurbanne, not far from Lyon’s center – and not in the suburbs. Poorer Muslims, living in HLM public houses complexes, are much less likely to participate in Islamic associations, especially when these organizations engage with the state.

It is against the backdrop of these racial and cultural tensions that 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).  

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502 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 within fringe groups of the French Islamic population” (Rousso 2006: 68).

503 I refer to the term from Andrew Hussey’s article.


505 Yet, they are suspicious of a state that seeks to ‘control and curb’ Islam. (Parvez: 2007, 2011a, 2011b).

506 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 Communauté Urbaine de Lyon], adding a fourth level of administrative territory.
The total number of carrés musulmans in the region as a whole is unknown. But, under auspice 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 amount of 300 available graves for an estimated Muslim population of 300,000. 507 As the study mentions: “The CRCM Rhône d’Alpes estimates that Muslims in France need more than 600 Muslim sections in public cemeteries.”

In my conversations with the President of the CRCM Rhône d’Alpes and the head of the commission Carée Musulman du Département Rhône, I inquired about the goals, the process, and the actors involved. 508 As both explained, 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. 509

Three 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 510; (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 families to buy

507 This the Rapport sur les Carrés Musulmans dans le Département du Rhone. Of the seven carrés, only two are located in the intercommunal cemeteries in the city of Bron and the city of Rilleux de la Pape. This means that they are accessible for the whole population of “le grand Lyon” (COURLY). Through email correspondence from November 2012 I learned that the project had at that point opened five new sections and enlarged the capacity of several others.

508 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 his efforts to keep me informed over the years and his comments to some of my writings. I rely on materials from his private archive.

509 “La communauté musulmane demande les mêmes droits que leur autres concitoyens, c'est-à-dire une égalité devant la mort, et cela veut dire une mort dans le respect de leur foi.” Document ‘les maires ont un rôle central.’

510 An additional brochure was designed in 2011: ‘Guide du défunt Musulman’ (private archive).
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. Using the language of the latest 2008 decree, they formulate it as follows: “regrouping the remains of the persons deceased of the Muslim confession.” 511 Furthermore, the study outlines the technical aspects of the construction of the carré, the ways in which the graves are position 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.” 512 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 justify their demands in reference to the framework and language of the latest 2008 decree, saying this decree “encourages the mayors (…) to favor the existence of spaces which regroup persons deceased from the same confession.” 513

Laïcité does not consist out of a prohibition of religion, but a recognition of the freedom of belief, that is to say, to believe or not to believe. The principle of laïcité demands of the mayors strict neutrality, 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.

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 no numbers are available on

511 “Regroupant les restes des défuns de confession musulmane.” Étude du CRCM sur les carrées musulmans, p. 11. This is contested. Although citizens have the right to have their remains stored in an ossuary (Art. R. 2223-20 CGCT), this should not qualify as a confessional ossuary.
512 (Bilan 2: carrés musulmans, état des lieux dans le département du Rhône, p. 11) Again, this is a contested interpretation of the 2008 decree. The decree states: “The space of confessional section shall not be isolated from the other parts of the cemetery by a material separation, of whatever nature, in accordance with the law of November 14, 1881.”
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, yielded 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 favors 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 endeavor. The explanation for so few existing carées in France, he said, is first and foremost, “because there has been no demand, simply put.” This has changed only recently, and that has to do with the fact that people have started to feel at home. Second, they are increasingly 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

514 He is President of the Communauté d'Agglomération de Chambéry and delegate municipal advisor for the municipality of Chambéry.
as ‘a man from the ground up’ (*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.

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, that Lyon was an exception, and that the CRCMs were in reality 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? 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.

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 do not want the state to help, but we absolutely need to work with the French state.

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516 Interview with the former advisor to Minister of Interior and Professor at the Imam Teaching Catholic Seminar, 5 February 2009.
517 Bauberot: 2004, Bowen: 2007, on the Gallican strand in *laïcité* in relation to the CFCM.
518 Interview with the Muslim burial agent in Lyon, 11 February 2009. This is a close approximation of his wordings, based on field notes.
4.4.4 Summary

The embedded cases described above answer the following primary field research questions: (1) What institutional solutions are chosen (materially)? And (discursively) how do burial decision-makers give meaning to these burial solutions? (2) What are the reasons given for the existence or particular format? (3) What are the terms in which they talk and the framework through which they justify their choices? I summarize the relevant decision-makers in a table at the end of this chapter. 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 6.3.3, I summarize here the case findings in regard to the question: “How is secularism used and argued for?”

Field Research Question: (1) What Institutional Solutions Are Chosen?
The Muslim enclosure in the cemetery of Père-Lachaise (1857) was a full-fledged section, by some referred to 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 changes 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 ‘regrouping 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 Frames?
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). Second, it is motivated by 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 decree). 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, the latter requires it. The main frames through which they perceive the issue are that of citizen integration, Islamic prescripts, and laïcité.

The historical material in the Paris region revealed primarily a concern with geo-political 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. From the secondary sources it is hard to know 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 a bearing (albeit limited) on the institutional format of provisions on Père-Lachaise. 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, in a time when France was trying to establish itself as a ‘grand Muslim power,’ orientalism became in vogue and “Islam did not scare yet,” the public presence of Islam was much less politicized.

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519 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.

520 Quotation from D’Adler (2005, 11). ‘Bad’ forms of Islam were scary – those associated with Arab fanatism, and anticolonial resistance. This fear gave rise to the governing strategy of fostering a “good
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, transformations within laïcité resulted in discrepancies between the actual shape of the cemetery and the ideology of the Third Republic. With the historical transition of an open and communal laïcité (laïcité commune et ouverte) toward a more stringent, combative version (laïcité de combat), everything previously permitted became prohibited. Today, that ideology is out of tune with the existing demands (laïcité and logic du terrain).

Furthermore, 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 compris) 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.

Thirdly, 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” (on s’amuse pas à mettre le Juif à coté du Musulman). Fourth, the conservator of Pantin mentions furthermore 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 lignes d’emplacements, making it the ‘laic Pantin,’ the ‘Jewish cemetery.’ Yet, this was the result of family regroupings and a system of achat d’avance rather than a political decision (logic du terrain).

In terms of the dominant frames, administrators see the matter as an issue of being pragmatic and providing (consumer) satisfaction (professional codes), the weight of history and system of achat d’avance (logic du terrain). The different forms of Islam” by co-opting Muslim leaders and the financing of religious institutions, e.g., the Paris mosque and cemetery (see Maussen: 2009, 247).
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 explaining 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 Paris case, the administrators are hesitant to admit it. The mayor has less trouble admitting this and uses his professional discretion: “To prohibit something to a mayor it has to be a very serious matter.” 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” as a result of demands by the families (logic 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.

Finally, as input for Chapter 6: How is secularism used and argued for? The administrators in Paris and Montreuil very actively use the term laïcité (as the French proxy), which is the legal, historical, or normative horizon that, strictly speaking, works to 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 they shift in the course of our conversation 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 in 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 laïcité that develop over time: laïcité française, laïcité dûr, laïcité du combat, laïcité commune et ouverte, laïcité positive, laïcité bien compris. 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! (C’est capital!) 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 narrative serves both as an explanation and a justification. Confessional sections are basically a bad thing, being the result of exclusionary Catholic practices. Yet, it is only a matter of justice, that today this provision is equally extended to all organized religions.

4.5 Conclusion: Comparative Municipal Findings

After all these pages a rich insight has emerged into the actions and public reasoning of burial professionals and Muslims/humanists who are dealing with these diversity
issues on a day-to-day basis. Furthermore, the embedded case studies provide insight into the relevant actors and processes that led to these solutions. Table 4.5 summarizes the central decision-makers, initiators, and relevant Muslim/humanist or other interlocutors in each of the embedded cases (further discussed in Chapter 5). Table 4.2, 4.3 and 4.4 summarize the answers on the ‘how and why’ of accommodation (further discussed in both Chapters 5 and 6). To avoid redundancies, we refer to the discussions in those chapters. By way of summary, I would like to highlight four important findings.

First, central to the complaint of the Norwegian humanists (Section 4.3.4), I discovered a set of arguments at the municipal level 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 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 countries I found that burial officials provided a designated area for Muslims in the public cemetery, with the exception of Elverum. This was no surprise insofar as Chapter 3 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 in no material way different from the Dutch Nieuwe Ooster. The cemetery of Thiais currently provides separate Asian, Buddhist, Orthodox, and Catholic confessional and cultural sections. It 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. That is what a discussion of national policies in the previous chapter 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 so that their graves would not get 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 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 *logic du terrain* that has informed burial practices for centuries.

Fourth, there are nevertheless large differences in the discursive understanding between the countries studied (as well as some remarkable similarities). 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.” In a more general sense, they juggle their words and navigate between formal ideological answers and everyday actions. The Dutch approach stands out because they have very little 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 his 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 honoring 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 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? On this I refer to Chapters 5 and 6.
Table 4.2. 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.

<table>
<thead>
<tr>
<th>Municipality/ geographical area</th>
<th>Solution(s)</th>
<th>Why do confessional sections exist? Reasons mentioned for choosing format</th>
<th>Terms of reference</th>
<th>Issue framework</th>
</tr>
</thead>
</table>
| 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 multifunctional facility. | Section is religious right. Yet, we do not want to distinguish between Muslims. Wish of individual/family should be the leading consideration. | - Equality between religious communities (kerkgenootschappen)  
- Yet, no religious factionalism ("hokjes geest") desired  
- Immigrant integration  
- Feel at home (“thuis voelen”)  
- “Rubs” the principle of state-church separation  
- Citizen integration  
- “Compensatory neutrality” (compenserende neutraliteit) | Issue frame: 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 WfB 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)  
- “Ieder zijn eigen plekje.” | Issue frame: Interpretation who is Islam, burial law and commercial exploitation |
| Almere                          | Private Muslim Cemetery  
Also understood as bought confessional section (legal expert). | Justification municipality: Adherence to burial law, honor 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  
- Acknowledgement of their religious “feelings” of securing permanent grave-rest  
- “We can set our own rules” | Issue frame: burial law, financial and urban planning issue. For Muslims: matter of internal governance, Islam. |
<table>
<thead>
<tr>
<th>Municipality/ geographical area</th>
<th>Solution(s)</th>
<th>Why do confessional sections exist? Reasons mentioned for choosing format</th>
<th>Terms of reference Issue framework</th>
</tr>
</thead>
<tbody>
<tr>
<td>Høybraten- (Oslo)</td>
<td>Confessional section in public cemetery Publicly funded washing and prayer area</td>
<td>Need to find practical solutions so that Muslims can bury their relatives.</td>
<td>• Pragmatic accommodation • Immigrant accommodation</td>
</tr>
<tr>
<td>Elverum</td>
<td>No collective section, individual consecration Existing Muslim graves are without form of adaptation. For future demands; No sections, just consecrating individual graves</td>
<td>No divisions in Death. Equal for all but not allowing divisions under the soil. Afraid for vandalism. Individual consecration of grave allows people to lie side by side.</td>
<td>• Not segregate in death • Equal treatment for minorities because of state church system (“minoritets rettigheter”) • No sections because serving integration, “tjene integrasjon I samm-funnet” • “rent praktisk.” • then I can be even more practical. • consecration as dominant concern. <em>Issue Frames:</em> Consecration, Pragmatism State church history, Integration, vandalism. Social democratic unity (KA representative)</td>
</tr>
<tr>
<td>Støren</td>
<td>Confessional section in public cemetery Understood as “with soft demarcation” Combined with the individual consecration of graves</td>
<td>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 new comers 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.”</td>
<td>• 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 “dis-respectful;” “At the moment of death you take what lies in front of you.” <em>Frames:</em> Consecration, Professional code (double hat Joint Parish Council), State church dominance, Integration, Social democracy, New burial law. Humanist: Churches’ grip on death.</td>
</tr>
</tbody>
</table>
Table 4.4: Summary of all embedded cases in France

<table>
<thead>
<tr>
<th>Municipality/ geographical area</th>
<th>Solution(s)</th>
<th>Why do confessional sections exist? Reasons mentioned for choosing format</th>
<th>Terms of reference Issue framework</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paris historical</td>
<td><em>Enclos confessional</em> entrance, demarcations until 1881 and modified afterwards, graves direction of Mecca Private solution with de facto self governance of the grand mosque of Paris, until 1999. Then becomes section in a inter-municipal cemetery Regular concessions (5 yr.) not in direction of Mecca Confessional section in public cemetery Understood as a ‘regrouping the result of individual choices’ Explicitly against private confessional cemeteries</td>
<td>Geopolitical reasons, honor request from political ally. Format after 1881 negotiated between Turkish and Persian embassy and prefect. 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 Probably to accommodate the fallen Algerian Muslims who fought for France in the Algerian war of independence. Or lack of space in Bobigny. Exists for reasons of historical precedent 1a) Family regrouping, and <em>achat d’avance</em> (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.</td>
<td>N/A</td>
</tr>
<tr>
<td>Père-Lachaise 1857</td>
<td></td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>Bobigny: 1937</td>
<td></td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>Thiais: 1957</td>
<td></td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>Paris contemporary</td>
<td></td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>Montreuil</td>
<td>Confessional section in public cemetery</td>
<td>Exist: for reasons of historical precedent a) Family regrouping (Jewish section result of <em>achat d’avance</em>) b) Let Muslims catch up (equity) c) Historical exclusion of Catholics is cause for existence of sections d) Mayor decides (political discretion)</td>
<td>Freedom of conscience Religious freedom in light of 1905 law Equity between religious</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Donner satisfaction logic du terrain management humaine on s’amuse pas à mettre le juif à coté du Musulman</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Dominant frames: Laïcité (of various kinds) Pragmatism Professional codes Funeral laws Logic du terrain</td>
</tr>
</tbody>
</table>
Table 4.5: Decision-makers, initiators, and Muslim/humanistic interlocutors.

<table>
<thead>
<tr>
<th>Municipality/geographic area</th>
<th>Who decides on format?</th>
<th>Initiator/important actors in the negotiations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paris Region Pére-Lachaise Bobigny</td>
<td>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.</td>
<td>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.</td>
</tr>
<tr>
<td>Thiais</td>
<td>Unknown</td>
<td>Unknown</td>
</tr>
<tr>
<td>Paris</td>
<td>Mayor of Paris and Service des Sections</td>
<td>Sections have long existed. Occasional pressures by</td>
</tr>
</tbody>
</table>

521 Syndicat intercommunal de Bobigny, La Corneuve, Drancy et Aubervilliers. 522 La société des Habous et des lieux Saints de l’islam.
<table>
<thead>
<tr>
<th>Location</th>
<th>Initiative</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Montreuil</td>
<td>Mayor decides</td>
<td>Muslims demanded, but unclear which group. Occurs at the Mayor’s discretion.</td>
</tr>
<tr>
<td>Lyon Ville/region Rhône D’Alpes</td>
<td>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</td>
<td></td>
</tr>
<tr>
<td>Amsterdam</td>
<td>Decided by municipality and cemetery management (De Nieuwe Ooster, DNO). Initiative Municipality Cemetery management (DNO) and Platform of Muslims in PIBA.</td>
<td></td>
</tr>
<tr>
<td>The Hague</td>
<td>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.</td>
<td></td>
</tr>
<tr>
<td>Almere</td>
<td>Stichting Almeerse Moslims</td>
<td>Initiative Stichting Almeerse Moslims Collaboration with municipality</td>
</tr>
<tr>
<td>Høybraten-(Oslo)</td>
<td>Decided by the graveyard and burial agency, the city of Oslo (Graverdsetaten I Oslo) Initiative Graverdsetaten Islamic Council Islamsk Råd Norge (IRN) and municipality collaborate.</td>
<td></td>
</tr>
<tr>
<td>Elverum</td>
<td>Joint parish council</td>
<td>N/A, no process initiated. But preliminary decision made by Joint parish council No demand expressed by Muslim community</td>
</tr>
<tr>
<td>Støren</td>
<td>Joint parish council</td>
<td>Initiative Joint Parish Council No demand expressed by Muslim community. Active engagement of humanist representative.</td>
</tr>
</tbody>
</table>
Chapter 5: Institutional Patterns of Governance

5.1 Introduction

Chapter 4 amassed a wealth of empirical information. It summarized 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: Le logic du terrain played an important role.

Could this similarity in institutional material outcomes be expected based on the state-organized religious models (hypotheses Ha1 and Ha2)? What other factors might play a role? In Chapter 3 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 Tables 4.2, 4.3, 4.4 in Section 4.5) can suggest a set of first-hand explanations depending on each municipal context. Second, in order to do justice to the complexity of the practical reasoning\textsuperscript{523} at the 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 Table 4.5, in Section 4.5). And I gather an even wider set of possible causes: The reasons

\textsuperscript{523} 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 and balancing cannot take place in any meaningful way, due to a priori lexical ordering, but rather takes place in a given institutional context (Bader: 2007a, 90).
Section 5.2 provides a short description of the institutional municipal pattern. Section 5.3 discusses hypotheses Ha1 and Ha2 concerning the material component of the municipal pattern. Section 5.4 reveals the full gamut of possible factors and processes at play in the governance of these group needs, visualized in the Actor Institution Constellation Chart, which serves as an analytic tool. Section 5.5 concludes with three sets of reasons for similar material outcomes across national contexts.

5.2 Municipal Institutional Pattern: Material Similarity, Legal Differences

The following municipal pattern emerges when we compare 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 argue this to be a confessional section of a municipal cemetery as well (see Section 4.2.3). In this respect, there are no clear indications of a ‘French,’ ‘Norwegian,’ or ‘Dutch’ way.525 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 would become the outlier. 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.526 Private cemeteries, too, are forbidden only in France, whereas in

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524 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.

525 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.

526 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 Dutch legal burial advisor, 10 August 2012.
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 chosen into consideration. I deal with that in the next chapter. The chart 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 2, 3, and 4. Furthermore, it anticipates the question of the hypotheses Ha1 and Ha2.

Table 5.1: Institutional policy outcomes (material, legal) specified at three levels of governance:

<table>
<thead>
<tr>
<th>Countries</th>
<th>France</th>
<th>The Netherlands</th>
<th>Norway</th>
<th>In line with Ha1:</th>
<th>Ha2: improvement?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Legal framework</strong></td>
<td>Prohibition of confessional section and cemetery.</td>
<td>Confessional sections and cemeteries are a legal group right.</td>
<td>Undefined for sections. Legal right to cemeteries. No legal right to neutral ceremonial room.</td>
<td>Yes. Legal outcomes reveal national differences fitting expectations Ha1.</td>
<td></td>
</tr>
<tr>
<td><strong>Municipal practice</strong></td>
<td>Paris, Lyon, Montreuil</td>
<td>Amsterdam, The Hague, Almere</td>
<td>Oslo, Støren, Elverum</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Institutional reality Material</strong></td>
<td>Material: Confessional sections have long existed, similar to Dutch</td>
<td>Material: Confessional sections, one Muslim cemetery and public financing of washing house.</td>
<td>Material: Confessional sections in most public cemeteries.</td>
<td>Material: No national differences. No relevance of state church legacies.</td>
<td></td>
</tr>
</tbody>
</table>

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 cannot say whatever occurs to them. They often provide a justification while referencing a legal or 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 house.
---|---|---|---|---

A look at the national and municipal levels reveals three puzzles: (1) France has many *more* Islamic sections and cemeteries than its burial legislation and laic ideology would properly predict. (2) The Netherlands have many *fewer* Muslim cemeteries than expected for such a religiously evenhanded burial legislation and publicly finances an Islamic washing facility in Amsterdam. (3) Norway has no Islamic cemeteries despite the legal possibility. At first sight this did not seem to be unusual because it is in line with what we could expect from establishment (Ha1). Likewise, our question “Why did the Norwegian state give the church charge of the public cemeteries in 1996 at a time of increasing pluralism?” seems to be in line with the expectation of establishment. In both instances, I argue that the category can explain outcomes too well (Breemer: 2014).

### 5.3 Hypotheses Ha1 and Ha2

Let us now examine these legal and material municipal patterns and link them to the hypothesis from the Introduction. To avoid redundancies, I rely on the tables in Section 4.5 for the relevant reasons given by the central actors involved:

(HA1): 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 would expect France to express 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 vast number of Islamic cemeteries, and Islamic sections in public graveyards. For Norway, we would expect to find 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.

(HA2): If we base our conception of national heterogeneous models, we would 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 (Ha2) as a combination of Gallican, associational, and strictly secular scripts (Bowen: 2007, 2012); those of The Netherlands as a combination of ‘principled pluralism’ (Monsma and Soper: 1997) and a secular tradition (Maussen: 2009, 2012); Norway would conceptualize its state-organized religious legacy as entailing ‘establishment’ (the remaining Lutheran hegemony), ‘compensatory evenhandedness’ (compensation toward other minorities), and (municipal) disestablishment schemes (Breemer: 2014).

French Embedded Cases

From the interviews depicted in Chapter 4, three main sets of factors help to explain why so many Islamic sections and cemeteries exist in France:

1) Logic du terrain: There is a ground-level praxis that 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 shape 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 d’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 community in Montreuil).

2) Professional codes: These lead the burial decision-maker 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 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

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528 In my summary here I have included pragmatism as part of burial professional codes.
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 only investigated Bobigny. Presumably, this was put in place because of Gallican motivations (control and support).

As to the hypothesis Ha1 (laïcité): A state-organized religious legacy plays an important role in determining outcomes. I was not able to confirm this statement for Ha1. 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 Ha2. 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 Ha2 have thus improved in this example.

Can we better explain outcomes that rely on Ha2? I will hold off my final answer to this question until the discursive analysis in Chapter 6. Possible proof would involve showing that decision-makers appropriate the state-church legacy in different ways in the different countries. 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 (hygienic) 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.

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?

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529 I say 'possible proof' because discursive relevance does not always imply explanatory relevance.
530 This involved, on the one hand, the celebration of fallen soldiers who fought for France. On the other hand, it involved Muslim civilians who had passed away in the neighboring hospital or local region.
The Netherlands counts around 267 Jewish cemeteries and an additional 2,233 other confessional cemeteries (see Table 3.2 in Section 3.2). The reasons for the absence of Muslim cemeteries are said to be a lack of financial and organizational resources on the part of Muslims, their unwillingness to take up the large administrative burdens, and the high percentage of repatriation (90%). The ‘successful’ Almere case revealed that financial obstacles can, but do not need to, 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 being independent, “setting our own rules,” and securing 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 the hypothesis Ha1: A state-organized religious legacy plays an important role in determining outcomes. I was not able to confirm this statement for pillarization. There are no signs of an Islamic pillar. Ha2 removes the expectation of a pillar, so in that sense it was an improvement. Yet, the constitutive elements of Ha2 (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 Ha2 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 house, 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 behavior 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 with state-church separation.

531 Interview with the President of the Foundation for Islamic Funeral Estate (Voorzitter Stichting Islamitisch Begrafeniswezen, (IBW). 9 December 2008.
separation overruling concerns with citizen integration (alternative regime). At this point in the analysis, I find that the more nuanced model (Ha2) does not better explain the discrepancy between the legal burial guidelines and actual practice. Rather, factors of internal governance and alternative regimes mattered most. Was the reformulation of the standard model then useless? See Chapter 6 for my comments.

Norwegian embedded cases: In the Norwegian context, I inquired into two contrasts: Private Muslim cemeteries in Norway represent a legal option that is not exercised. Could we have expected this based on the characterization of Ha1 as ‘established’? This entailed the continuing relevance of the Lutheran Church as the privileged denomination and only an extension of rights to other confessional and secular groups. 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 offer for Lutheran/public cemeteries is paid for by the public budget.\(^{532}\) Yet, Muslim or other registered communities do not receive compensation for the expenses of this public item. The municipal expenses for 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 but it would also leave the ‘evenhandedness component’ rather weakly realized. ‘Establishment’ thus seems to be only 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.\(^{533}\) There is an unwillingness to take on the large administrative and regulative burdens that come with getting permissions for a cemetery. (French

\(^{532}\) 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 religious of 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 (cemetry) expenses.

\(^{533}\) I base this on interviews with the Representative Al-Khidmat (Islamic Burial Agency), 29 April 2009, and the Secretary General of the Islamic Council of Norway, 27 July 2009.
Muslims also argued this way.) 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 Muslim cemeteries, although they are legally permissible in both. On the other hand, there are Jewish cemeteries in both countries. In other words, 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 serves to understand why the Norwegian state gave the church charge of the public cemeteries in 1996, at a time of increasing pluralism. That legal act was perceived to contrast the commitment to increasing pluralism and evenhandedness toward religious and life-stance minorities. Although Ha1 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. In this example, I have worked backwards, inferring an explanation for the 1996 change from interviews and literature. Second, I traced this element more systematically back in the history of Norwegian state-church relations (see Section 2.3.3). This served to explore whether it constituted a well-established type of reasoning (or that it was the idiosyncratic reasoning of a particular public official). Then I added that explanation: ‘municipal disestablishment’ or more elaborately: ‘(local) disestablishment of the church from the municipality with the aim of establishing the local church among the people’ into the model. If my analysis was correct, I should have improved the explanatory power of Ha2. Yet, as a descriptive device, it proved hard to derive an institutional prediction.
from Ha2 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 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, ‘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.\textsuperscript{537} Furthermore, it explicitly aims to strengthen the position of the local Lutheran church by “creating identity in the people.”\textsuperscript{538}

In sum, my suggested Ha2 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 a municipal-church politics, rather than state-church politics. Second, maintaining an important local role for the church occurred through disestablishment, rather than establishment.\textsuperscript{539} Combining the two sets of arguments from Chapters 3 and 4, the 1996 funeral act now makes sense as a further ‘disintertwinement’ of local church and municipality (or ‘disestablishment’). At the same time, it confirms (or at least for the moment 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’).

5.4 Reasons for Accommodation: Multiplicity of Factors, Multiplicity of Means

\textsuperscript{537} The parish legally owns the graveyards, yet the municipality pays for them. It is thus a bit of a halfway house.
\textsuperscript{538} Innst.O.nr.46 1995-1996, 2.
\textsuperscript{539} 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.
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 analytic. 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 4.5, Chapter 4.) 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 can be top-down and bottom-up). But I also include elements of Scharp and Schmidt’s actor institutionalism into Bader’s explanatory framework. I propose an Actor Constellation Chart to visualize this complexity. With this heuristic, 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.

5.4.1 Institutionalization of Minorities: Internal vs. External Governance

Veit Bader conceptualized the institutionalization of religion or minorities as a “two-way and conflictive process” (2014, 1). In most of my case studies, the construction of Muslim sections or Islamic cemeteries indeed involved consultation processes between states (or private cemetery owners in The Netherlands) 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 informing their constituency of the permissibility of burial practices within an immigration context (internal governance top-down). Moreover, it proved crucial for this institutional domain to understand the bottom-up behavior 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

540 This is true, with the exception of The Hague, where the initiative for Islamic divisions in the 1980s came entirely from the municipality. This was likewise the case in Støren.
541 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).
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) that 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 form of an Islamic section. 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). This allows for a wide diversity in regulations (or the absence thereof in some cases). Second, it results in a larger sensitivity to market forces and – I would presume – a more accommodating attitude toward religious minorities. Dutch cemetery owners have to run their cemetery with an eye toward profit – or at least 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 only costs money.” 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. 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. Yet, I found the role of private actors 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

542 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.
543 This is a question for further empirical research.
544 Interview with the Director of the Catholic Cemetery The Hague, 4 December 2008.
545 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 the cemetery (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 (Døving: 2009).
546 Interview with the burial undertaker Lyon, 12 February 2009.
solution in the cemetery, with the exception of Al Khidmat, Oslo’s Islamic burial agency, which has a dual role. \footnote{As addressed later, this functions as a private company and Muslim representative organ. They may be consulted in the process deciding the shape of sections.}

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 this 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. \footnote{One of its members is a municipal representative.} In Oslo, the arrangement is slightly different because here Graverdsetaten operates with more independence from the Joint Parish Council. Remarkably so, the process for constructing a section was possible in 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. In Paris and Montreuil collective sections had historically been present. Thus, 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 Foundation, 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’i, collaborate.\(^{549}\) In The Hague, the different Sunni, Shia’I, and Ahmadiyya groups communicate individually with the municipal cemetery management.\(^{550}\) 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 in matters of Islamic burial.\(^{551}\) 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 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 Netherlands, where cemeteries are to a larger degree privatized. What also has 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 level of families. As a result, different means of governance ensue, beyond formal rules and laws (more on this later).

\(^{549}\) This includes large organizations like De Unie van Marrokkaanse Moskeen in Amsterdam en Omstreken (UMMAO), Milli Görüş Nederland, Diyanet, and other, smaller Muslim groups like Stichting Fatima Al Zahra (representative of Shia’ Muslims) and Ahmadiya Lahore (ULAMON).
\(^{550}\) I have no information which Muslim groups were part of the initial negotiation process. Yet, currently each group talks with the cemetery management separately.
\(^{551}\) This I mean in political administrative matters, not religious interpretation. Interview with the Secretary General Islamic Council (IRN), 27 July 2009.
As for Bader’s description of the institutionalization of religion as a two-way “confictive” process, I can confirm its two-way nature. But 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.\footnote{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.} 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 conflicts.\footnote{Interview with Al Khidmat, 29 April 2009.} 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.

5.4.2 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. This integrates elements from Scharpf’s actor-centered institutionalism (a focus on multiple actors and processes); from Bader’s governance approach (a focus on internal and external factors top-down and bottom-up); and from Schmidt’s discursive institutionalism (institutions visualized as concrete structures and as constructs in the mind of the actor).
Actor-Institution Constellation

Layered reality of Internal Governance

Burial Regime
- Transnational (law/policies)

State Organized Religion Regime

Integration Regime

Islamic/Humanist Sources of Authority
- Transnational Islamic networks and codes
- National humanist association
- Regional Local Islamic networks
- Local Islamic networks
- Organized Families

E.g. Municipal/Private actor
- Muslims/Humanists

Logic Du Terrain/Praxis/Cultural sensibilities
- Dead people need to be buried. Death is sacred. Groups/families pressure to be buried together. Sections have long existed. We should be whole. Religion cannot be trusted.

Policy Outcomes
- What they say
- What they do

Layered reality of external governance

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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 back 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. 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 demand 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 behavior of Muslims from Morocco.\footnote{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 for their newborn in a country like The Netherlands or France, this offers a set of provisions, like repatriation of the body to Morocco in the case of death (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 (\textit{begravelseskomitées}) assist the families with the burial process. See Section 3.2.3.} That, furthermore, implies that the 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 \textit{logic du terrain} (addressed later on). Last, the figure visualizes how the institutional regimes are both concrete structures as well as ideas and frames 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
micro level 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 Ytte Klaussen (2005, 220) talks about it in the case of Denmark.555

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 owners. The exposure to market forces is felt much stronger by Dutch cemetery owners than elsewhere.556

Apart from the possible effect of a variety of institutional regimes the set of external or internal factors of governance can be layered and changes 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 (indicated by the years 1804, 1881, 1905 along the national legal line557) and the political decrees of 1975, 1991, and 2008. Note that I also included a

555 My material contained suggestions of anti-immigrant motives, for example, in the reasoning of one central figure in municipality of Chambéry (Section 4.4.3), who did not want confessional sections, according to the President of the CrCM Rhône d’Alpe, “Not only because he is racist, (…) but because he does not think that favors integration.”

556 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.

557 These correspond with the Napoleon Decree of 1804, the 1881 law on the neutrality of the cemetery, and the 1905 law. See Chapter 2 for a detailed discussion.
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 behavior 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’Alpe 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 gray zone is where – despite strong legal differences – convergence in outcomes between countries can occur.\(^{558}\) 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 will we make accommodations that take care of minorities.”\(^{559}\) The Norwegian state provided a financial incentive with its 2012 trial project, to support the construction of neutral ceremonial rooms (Section 3.2.3.1). Recall the French letter from the Ministry of Interior 2003: “The law regarding cemeteries and Muslim parcels does not require substantial modifications.”\(^{560}\) Yet, “it seems desirable, out of a concern with the integration of families as a result of immigration, to favor 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 3.2.1).

(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’

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\(^{558}\) Sections can be permissible but undesired (Elverum), illegal but administratively allowed (France/Lyon), a legal right (The Hague, Amsterdam), an exception (Père La Chaise/Thiais, France), or a violation of the law but nevertheless present (Bobigny 1937–1999).

\(^{559}\) Stortings Melding 2007-2008, 11–12.

\(^{560}\) Letter of the Minister of Interior Affairs, Security and Public Freedom, 13 August 2000.
own internal behavior) end. Yet, 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 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 exiting. 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 du cimetières aptly formulated:

The problem (…) is that cemeteries do not lend themselves be 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 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 a grave one after another”. As he explained, Muslims all have to be buried with facing toward Mecca. Yet, in some denominations, the body is positioned on its side in the grave (or in France 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, the 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.

### 5.6 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 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 state-church model Ha2 better anticipate the material institutional outcomes? I found that only in France did the more heterogeneous model (with its Gallican script) better predict the existence of collective sections and a Muslim cemetery like Bobigny. For The Netherlands, Ha2 (principled pluralism and 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 house. For Norway the designation ‘municipal disestablishment’ added in Ha2 was too vague a description to formulate concrete expectations. Here, in fact, establishment (Ha1) did a pretty good job of anticipating the lack of Muslim cemeteries and the legal change 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.\textsuperscript{561}

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 of the terrain: families or groups of a particular religious or cultural affiliation who desire to be buried together. The bottom-up behavior 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.\textsuperscript{562}

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\textsuperscript{563} (see the chart). This suggests that the multiplicity of causes can explain outcomes. As to their explanatory power: Institutions, praxis and cultural/structural factors all potentially 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.\textsuperscript{564} But, how about their significance for the public reasoning of the burial agents? That is our next topic.

\textsuperscript{561} 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 6.3.1).
\textsuperscript{562} I placed cultural sensibilities at this level, as the \textit{doxa} by which burial administrators automatically find certain solution inconceivable without being able to tell why (see Chapter 6).
\textsuperscript{563} This can be transnational, national, regional, municipal levels of structuration, or those of families: Governance can correspondingly be ‘top-down’ or ‘bottom-up.’
\textsuperscript{564} I say “seemed” because a descriptive misfit does not prove that they were not an influencing (explanatory) factor. The best we can do is to say “Well, outcomes do not correspond to what we expected.”
Chapter 6: Discursive Patterns of Governance

6.1 Introduction

Chapter 5 tried to make sense of the similar institutional patterns discovered in our analysis of the embedded case studies of Chapter 4. In this chapter, I address some of the other remarkable findings of Chapter 4. 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 state-church legacies play a role for their answers. If the postulated state-church legacies (Ha1 Ha2) failed to properly predict material outcomes, as concluded in Chapter 5, might they nevertheless have relevance for the agent’s discursive responses?

Section 6.2 describes the municipal reasoning in three observations of both discursive similarity and difference. In Section 6.3, I engage hypotheses Ha1 and Ha2 as discursive tropes. Do elements of these models turn up in the agents’ discourse? Section 6.4 rounds off the discussion of Chapter 5 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 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 (Sections 6.5.1 to 6.5.3) and to empirically substantiate the theoretical critique of Asad (Section 1.3.4). In my conclusion in Section 6.6, 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.

6.2 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. Another way of showing discursive differences (and similarities) is to spring quickly forward to the discursive chart mentioned in Section 6.3 (scheme 6.3). 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 demarcation 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. That is a remarkable finding: 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 manifest. I address the second and last observation in Sections 6.3 and 6.4.

6.3 Relevance of National State-organized Religion Legacies in the Discourse

One way of formulating what I am looking for means returning to Clifford Geertz’s distinction between a ‘model of’ and ‘model for.’ As discussed in the Introduction (Section 0.3.1), 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. 565 Scholars furthermore might have implicit or explicit normative motivations for explaining outcomes in terms of the national model or category. Remaining conscious of this distinction, says John 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 model (the elements of Ha2, e.g., a concern with ‘principled evenhandedness’).

6.3.1 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

565 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’ general framework.
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.” We could recognize reliance on some of the scripts of Ha2: 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). I found no explicit discursive reference to Ha1 ‘pillarization’ (neither as a term, an institutional meaning context, nor as a historical narrative).

6.3.2 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.” Yet, 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 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

566 We simplify here –there is usually a combination of arguments.
567 The essence of Dutch state-church relations, according to him, emerges from the fact that the government does not interfere with the content of religion, and that no preferential treatment is allowed. Public financing of the washing house is thus not allowed. Yet, he overrules this with his concern with citizen integration (Amsterdam case).
task of meeting others and showing respect for their life-stance perspectives. For me this is personally very important.” Furthermore, in the interviews from 2012, the just-revised 2012 burial law had become the leading normative horizon for thinking about solutions for both Muslims and humanists. The humanist in Støren explains his choice for individual consecration as a solution because “it is the priests who came up with this suggestion.” He goes along out of respect: “I find it unworthy toward the Christians, to say ‘this consecration thing is nonsense.’” He saw the 1996 legal change as an example of a disrespectful, dominant faith community that tried to maintain a grip on society, through the cemeteries. I can furthermore confirm the commitment to ‘compensatory evenhandedness’ as an operative script. 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. Rather, it forms the starting point for discussing possible solutions. As the minister in Elverum recaps and advises the humanists: “From a pure practical point of view,” they realize that they are better off making their peace with the situation. In this discourse, arguing ‘pragmatism’ comes very close to defending the status quo.

6.3.3 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 4.4.4). 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 1.3.4), I also remain sensitive to situations of non-usage. Furthermore, laïcité is not the only issue at stake. Therefore, I inquire whether ‘strict neutrality,’ ‘Gallican,’ and ‘associational freedom’ are present as discursive resources.

568 Interview with a senior advisor to the Norwegian Ministry of Government Administration, Reform and Church Affairs, December 2012 and an interview with the church warden of Støren, October 2012.
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. They sometimes change in the course of a conversation 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)? The question of what prescriptively follows from laïcité proved closely tied to the question of what laïcité is. And, reversely, 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 with some examples.

What follows prescriptively from laïcité in matters burial? 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 to extend or create new private cemeteries, “conscious toward 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. As much as laïcité entails a prohibition to discriminate on the basis of religion, they stated, it simultaneously obliges the state to allow its citizens the free exercise of religion. Much 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, both

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569 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’ (Sartori: 2009b, 109).
570 Le guide pratique des funérailles musulmanes en France” (2005).
571 For a discussion about solutions, see FASILD: 104; Le guide pratique 2005: 44; Machelon Rapport: 65.
572 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 Rapport: 65).
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 modéré 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 text 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 either on 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 (historical) versions of *laïcité*, some constraining and some facilitating accommodation. 573 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 life world.

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573 *Laïcité française, laïcité dur, laïcité du combat* were the constraining versions; *laïcité commune et ouverte, laïcité positive, laïcité bien compris* the more permissible versions (Paris contemporary).
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 3.3): 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. The alternative, as Bowen has suggested, is to conceive of French state-organized religion relations in terms of historical scripts.

6.3.4 Strict Neutrality, Associational Freedom and Gallican Logic

A variety of public actors draw on a neutrality scheme as a matter of rhetoric. A 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 life-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 matter of day-to-day practice, this ideal mattered less. 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. Some actors made proposals for establishing private Muslim cemeteries. 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,

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574 This is not an explanation, but rather the thing to be explained.
575 See Bowen (2012, 361) for a similar observation.
deciding who can be buried there and who not.” (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.’\footnote{Again, I can only confirm Bowen’s observation (2012, 361).} The chef du cimétière 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 pretense 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.

6.3.5 General Summary: Ha1 and Ha2’s Elements as Discursive Resources

Do the scripts of the standard and/or more heterogeneous state church models (Ha1 and Ha2’s) appear in the discourse? For France, Ha1 (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’ in Ha2 provided a good fit with
parts of the Montreuil mayor’s reasoning. 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 between 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 state-organized religion model (Ha2) 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 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.
**A Discursive Chart of the Life-world’s Reasoning, Part I**

1. Municipal outcomes
   - **Solution**
     - Discursive understanding of the solution

<table>
<thead>
<tr>
<th>Location</th>
<th>Confessional section</th>
<th>Material</th>
<th>Discursive understanding of the solution</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Paris</strong></td>
<td>Confessional section</td>
<td></td>
<td>Understood as: ‘regrouping the result of individual choices’</td>
</tr>
<tr>
<td><strong>Montreal</strong></td>
<td>Confessional section</td>
<td></td>
<td>Understood as: ‘regrouping of deceased of Muslim faith’</td>
</tr>
<tr>
<td><strong>Lyon</strong></td>
<td>Confessional section</td>
<td>Private cemetery before 1999</td>
<td>Understood as: firm section without confessional governance</td>
</tr>
<tr>
<td><strong>Amsterdam</strong></td>
<td>Confessional section and Islamic washing house</td>
<td></td>
<td>Understood as: firm section with self-governance</td>
</tr>
<tr>
<td><strong>The Hague</strong></td>
<td>Confessional section</td>
<td></td>
<td>Understood as private cemetery</td>
</tr>
<tr>
<td><strong>Almere</strong></td>
<td>Private solution</td>
<td></td>
<td>Understood as manifestation of difference</td>
</tr>
<tr>
<td><strong>Elverum</strong></td>
<td>No section</td>
<td></td>
<td>Instead ‘individual consecration’</td>
</tr>
<tr>
<td><strong>Støren</strong></td>
<td>Confessional section</td>
<td></td>
<td>Understood as ‘soft’ section</td>
</tr>
</tbody>
</table>

2. Central ideas
   - **Respect for families**
   - Provide satisfaction
   - Humane management
   - Weight of history
   - Laïcité as neutrality of 3rd parties
   - Administrator
   - Freedom of belief, Neutrality of 3rd parties
   - Freedom of conscience
   - Freedom of religious practice
   - Let Muslims catch up
   - Equity and nondiscrimination
   - Logic
   - For a mayor what is the problem? We are very pragmatic.

578 In light of Integration politics.
579 In light of being a burial professional and spirit of the law.
580 In light of practical concerns with space, direction of the graves and allocation. (pragmatism).
581 In light of being a burial professional and logic du terrain. (Because there is a strong demand, we provide).
582 In light of logic du terrain: the fact of achat d'avance and historical and contemporary pressures of confessional groups.
583 In light of logic du terrain and lobby or pressures of confessional groups/public order.
584 In light of burial law.
586 In light of existing Jewish section and the discretion of the mayor (professional code).
587 In light of the discretion of the mayor (professional code).
588 In light of the 1905 law.
589 In light of the 1905 law, the weak economic situation of Muslims.
590 All of the above norms are understood in light of an overarching "principle of laïcité."
591 In light of the 1905 law, the weak economic situation of Muslims.
592 In light of the 1905 law, the weak economic situation of Muslims.
593 In light of the 1905 law, the weak economic situation of Muslims.
594 In light of Islam and tradition – one should be buried in the land of death.
595 In light of existing Jewish section and the discretion of the mayor (professional code).
596 In light of the 1905 law.
597 In light of the 1905 law, the weak economic situation of Muslims.
598 In light of the 1905 law, the weak economic situation of Muslims.
599 This is demanded as a matter of equal citizen rights.
600 In light of existing Jewish section and the discretion of the mayor (professional code).
601 In light of existing Jewish section and the discretion of the mayor (professional code).
602 In light of existing Jewish section and the discretion of the mayor (professional code).
6.4 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. At this level, I stuck to the language of the life 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.

At the third level, I interpreted what respondents see as the issue. Here, too, I closely followed the life 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 logic 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. 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 1.3.3). 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.”

606 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.”
607 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 in burial matters, 10 August 2012.
keep the chart accessible, I discuss this separately under Section 6.6.

Both issue frames 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, or is it an issue framework, or 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 Muslim and Jews? In the life world, these terms are given a multiplicity of meanings. My aim with 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 works in the context of the life 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, I am wary of overinterpretation. I try to make the levels of life 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 6.2. 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 these in the context 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

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608 As explained in Section 5.1, the complexity of practical reason refers to different normative arguments at play: moral obligations, conflicting with prudential and or realistic obligations and the difficulty of weighing and balancing them.
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 text 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 compris (“well understood”). In Montreuil, the mayor uses the argument of ‘religious freedom of practice’ to justify accommodation of Muslims house of worship, this grounded in an interpretation of the 1905 law.609 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.

In Elverum, the minister argued for accommodating Muslims 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

609 What is religious freedom if the material conditions for this freedom are lacking? Let Muslims catch up, he thinks.
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 Storen, 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, ‘laicite bien compris,’ 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 life world reasoning.

Why establishing causality is hard. As indicated with the actor constellation chart (Section 5.4.2), the complexity consisting of variety of institutional regimes form 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 think) about 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 it is because of an internal heterogeneous state-organized religious regime (Ha2) that he makes this choice. 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 haste 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 can go 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 matter 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 *logic 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) that of distinguishing motivation from justification; (b) there is often a multiplicity of causes; (c) institutional action is not always reflected, but initially rather practice-driven, confirming Schmidt’s knowhow type of social action;
(d) 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 life world. I propose an understanding 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 *logic du terrain*); and (c) ultimately, the decision-makers who make sense of the burial demand in light of these structures through their discourse. The following drawing visualizes this from the perspective of the decision-maker.610

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610 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) the level of praxis, (4) behavior and action. See Van Engelen (2000, 6) who relies on Bader.
6.5 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 empirically substantiate the theoretical argument of reification. As argued in Section 1.3.4, 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 the boundaries of the concept – is recast in terms of concept 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 life 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 is the place holder for the analysis. (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 and 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 ‘logic 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 (logic du terrain). 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 life 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 and Duyvendak: 2012).

6.5.1 Denotative Troubles 611

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 the ways in which 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 rather hinders comparative analysis.

The first comparative point is that secularism or laïcité is something real for the French respondents (however contested), 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 is more precise terms and analytic distinctions, not taking recourse to a higher level of abstraction. As just argued for the

611 Can the term ‘secularism’ denote what references fall within its boundary? Failure to provide for clear demarcation criteria is referred to as ‘denotational vagueness’ (Sartori: 2009b, 109).
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 analytic room for the meaning-giving process of the life 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 life 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.  

6.5.2 Relevant Quotations: “How Does Secularism Affect Your Decisions?”

Here is a passage from the interview with the church warden in Støren:

*Me:* How has secularism affected your work?  

*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 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 no offensive things. 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 put up a cross here on the new part of your cemetery?

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612 For reasons of space I have limited this to four examples from the Norwegian and Dutch material.
613 “Hvordan har sekularisme påvirket dine arbeidsoppgavene?”
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 a 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 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 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?614

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

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614 “Naar uw opvatting hoe houdt de Wet op Lijkbezorging rekening met sekulariteit?” Interview Juridical Advisor in matters burial, 10 August 2012.
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 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 extreme right …” As observed in the French context, naming or framing things as laïcité (or not) always implies an implicit normative stake.
6.6 Conclusion and Unexpected Finding

One central line of argument in this thesis 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, 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 life 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 thesis looked at scholarly proposals that suggest a range of normative scripts and schemas (Ha2) 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 Ha1 and Ha2 scripts. Dutch respondents talked about giving everybody their own spot, which can be interpreted as a concern with ‘principled evenhandedness’ (or not), 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. 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 ‘logic 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, Ha2 was an improvement over the Ha1 type of national models, in the sense that the more nuanced ones better describe the range of (normative) concerns at stake. Yet, I was rather careful in attributing explanatory power to these institutional models. The nature of practical reasoning as encountered in the life 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), I would like to close with a further suggestion. Left undiscussed are cultural and confessional narratives: a level of ideas at a par with Schmidt’s distinction of public philosophy (Section 1.3.3). 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 behavior 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 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?

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615 I found this to be less the case for Norway, since my proposed script disestablishment was not mentioned as a reason in the discourse.

616 It is, of course, the scholar who first separates reality into ‘variables,’ only to then conclude that in reality these variables are interwoven.
That depends again on what the scholar means by secular. Furthermore, *because* it is tacit, it is hard to find counterevidence.

### 6.6.1 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 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 countereexample does little to change his mind. Or, when I tried to give a proper ‘laic example’ from another context: Zurich, a Kanton in Switzerland,
prohibits separate divisions of the public cemeteries for reasons of laïcité. Yet, Swiss law allows for the possibility of private cemeteries.\textsuperscript{617} In other words, laïcité as an abstract set of principles cannot explain why private cemeteries are unacceptable. This points toward another dimension in the discourse: The fear of exclusionary religious communities is 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 de Paris)

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.”\textsuperscript{618} 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’ 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

\textsuperscript{617} See PfaffCzarnecka (2004).
\textsuperscript{618} The KA representative.
solution of consecrating the soil grave by grave. Because humanists can be accommodated by that solution, the force of their arguments is discredited.619

6.6.2 ‘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 frames: ‘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 case) 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? This I would like to propose, albeit with a certain hesitance. 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.

619 In some case humanists have started to care and talk about consecration as being an issue as well. Often claim-makers adapt to the language and categories of the existing institutional frameworks.
### Discursive Chart of the Life-world’s Reasoning, Part II.

4. Wider background narratives (loosely articulated stories that inform the choice but cannot be fully explained)

5. Metacultural frameworks

<table>
<thead>
<tr>
<th>4. Cultural/confessional narratives and sensibilities</th>
<th>Paris contemporary</th>
<th>Montreal</th>
<th>Lyon</th>
<th>Bobigny</th>
<th>Amsterdam</th>
<th>The Hague</th>
<th>Almere</th>
<th>Elvenum</th>
<th>Støren</th>
</tr>
</thead>
<tbody>
<tr>
<td>Narrative of Catholic exclusion and role of state as protector of the individual</td>
<td>Narrative of Catholic exclusion</td>
<td>Used to explain and justify Islamic sections</td>
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<tr>
<td>Used to argue against private cemeteries</td>
<td>Laïcité/Republicanism?</td>
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<tr>
<td>“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)</td>
<td>“Allowing for private cemeteries – ah, no, that is an untenable thought.” (Mayor)</td>
<td>Becoming part of French soil</td>
<td>Recognition, cure and control. (inferred motivations)</td>
<td>“Feeling at home”. No factionalism. (CIBA project)</td>
<td>“To every mosque its own spot.”</td>
<td>“They don’t have to be bothered with who lies on the other end.” (Head of Department of Cemeteries)</td>
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<td>L’inscription territoriale de la communauté musulmane</td>
<td>Possibly health/disease metaphor</td>
<td>“Then we don’t start thinking in factionalism (boekjegeur).” Like: I don’t want to lie next to you, or you.” (Consultant LOB)</td>
<td>“They don’t have to be bothered with who lies on the other end.” (Head of Department of Cemeteries)</td>
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One interpretation of this discourse is to see it as particular (cultural) variations of a general binary opposition. Rein and 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 understanding of the solutions (individualize the solution). Although they differ in the particular issue framework620 (‘Republicanism’ for France and ‘social democracy’ for Norway), they share, in contrast to the Dutch agents, skepticism 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!)621. 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

620 This is called an ‘institutional action frame’ in the terminology of Rein and Schön.
621 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.
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 (*helhetig*, holistic) 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 skeptical toward fragmentation. (“I am not in favor of a patchblanket strategy”, KA man) That is why they resemble the French in their discursive solutions chosen. That it concerns ‘religious’ collectives does 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 amongst 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 discursive solutions chosen, it thus mattered equally 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? The Norwegian and Dutch respondents don’t recognize it as explicitly secular sensibilities because their picture of religion is much more benign; it is a nonissue for them, not a matter for explicit theorization. Rather, the decisive issue is primarily one of groupness in relation to 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? Furthermore, for understanding what gets done to Muslims and humanists, it mattered only in part to chart the respondent’s implicit attitudes toward ‘religion.’ It proved equally important to note when it was not about ‘religion’ (or the ‘secular’). 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.

6.6.3 Full Circle

This has brought us full circle. Going back to the discussion of Asad, Hurd, and Dressler/Mandair (Section 1.3.4), it has now become obvious why their heuristics would fail to capture this reasoning of the life world. In my understanding of the life 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. Yet, the underlying presuppositions in the framework of Asad, Hurd, and Mandair fail to allow for the specification of the non-case. Second, their heuristics exclude the possibility that, for the layman, something can be about religion, but it has nothing to do with secularism or being secular (see quotations in Section 6.5.2). 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). Neither could one call current burial regulations in Norway secularism or secular. “The Church of Norway is in control so I do not see how that can be secular” (a humanist from Oslo). In other words, the meaning and conceptual hierarchy of the terms in the life world fundamentally contrast with that of the Asadian scholar. Looking through their analytic lenses, we misunderstand the life world. Rather, we find their implicit epistemological picture reconfirmed.
Conclusion: A Comparison of State Responses to the (New) Diversity in the Cemetery

7.1 Introduction

How do different states respond to similar situations of (new) religious and cultural diversity? This is the key question this thesis 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 study addresses two instances of ‘new’ religious and cultural diversity: the demand in Islam for graves to 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. Furthermore, the ‘newness’ of humanist burial needs lies not in any migratory events, but occurs because of internal societal changes in Norway. Nevertheless, recent changes in the repatriation pattern of Muslims (that differs for different 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 is the case because the topic of Muslims living in Europe has only recently 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

622 See also Bader for this point (2007b, 871).
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. Or the attitude toward Muslim immigrants and their institutional needs can be informed by what Asad would call secular sensibilities, that is, automatic 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 colored 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-understandings 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 thesis refers to the work of Talal 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, I chose a more standard historical, institutional, and comparative approach.

Under the banner of a multileveled discursive (religious) governance approach, this thesis contends the following: The ways in which 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 mapped, first of all, 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 being an issue about.

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 of all, in the scholarly debate concerning Islam in Europe, one constant issue remains, namely, whether one can observe an overall trend of convergence between public policies in countries. Do countries become similar, or do they retain their national and peculiar differences? Second, as part of such a question, how should scholars conceptualize such 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’ (see Statham et al.: 2005), or ‘Norwegian establishment,’ authors argue, 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 (Bertossi and 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 behaviors, social movements, and public opinion. Lastly, 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:

623 This includes legal and material outcomes.
624 Looking at burial agents’ public reasoning helps us to investigate how formal regulations or elements of the national model (institutional arrangements) are made relevant in the process of application.
And this is then the third reason for inquiring into the relevance of state-church legacies as well as secularism. Scholars need models or analytic categories to help reduce complexity, but thereby 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. What links my domain study and a discussion on national models with that of a conceptual discussion on secularism is a concern with scholarly reification.

At the second most general level, this study asks 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 2, 3, and 4 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 chart 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 5 summarizes the extent to which legal and material municipal policy outcomes agree with the expectations based on the standard state-church models (H1); ‘laïcité,’ ‘pillarization’ and ‘establishment’ and the more nuanced models (H2) as ‘models of.’ Chapter 6 summarizes the extent to which these models (or their scripts) came back in the public reasoning of municipal burial agents (models for). The short answer to the second research question is that state-organized-religion legacies 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

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625 The master chart summarizes all findings from Chapters 2, 3, and 4. It is a compilation of the tables presented in Chapters 5 and 6.
Norwegian agents, but not in their actions. To answer research question three, we looked at how burial agents and Muslims/humanists justify the solutions chosen. The short answer is: In the Dutch and Norwegian lifeworlds, secularism is not used and argued for.

7.2 Reification

Before I address these outcomes in further detail: What is at stake in this investigation? For the non-specialist, 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. This thesis shows 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 and discursive approach. Second, a factual investigation should be amenable to being translated into good scholarly concepts that capture such complexity, beyond the grand narratives of ‘multiple secularisms’ or ‘post-secularity.’ And at least for research projects that claim an interest in grounded, everyday life analysis, scholarly concepts should be informed by life-world reasoning and not obstruct comparative analysis. The connecting point between these two arguments is the relevance of discourse. 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 this as being an issue about. 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.’

626 I argue here in line with Bader (2012a, 5).
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.627

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 that way. Yet, 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 laïc 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 laic 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 neighboring 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 thesis 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

627 Nunez (2011) provides for a very interesting historical construction of the accommodation of Islam in the burial domain in Parisian cemeteries (1857-1957). She discusses the range of Muslim (and Jewish!) accommodations occurring well before the first decrees (1975). But it is unclear whether her wordings of “these discretely negotiated spaces” reflect her own contemporary concerns with laïcité - or whether they simply describe the way in which the matter was seen at the time. I make a similar point about Petit (2006); see case study Bobigny, Section 4.4.1.1.2.
is not in line with the reasoning of the life-world under investigation. I address the theme of reification in more depth in Section 7.5.1.

7.3 Summary of Burial Patterns

After 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 7.4.1 provides detailed answers to research questions 2 and 3. And Section 7.5, finally, discusses the main theoretical implications of the thesis findings.

7.3.1 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 extend cemeteries. 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

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628 Code Général des Collectivités Territoriales (CGCT).
629 Further exceptions are three departments in the region Alsace-Moselle (Haut-Rhin, Bas Rhin and Moselle), which still operate under regulations of the Concordat.
630 De wet op lijkbezorging 1991.
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; 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).631 Despite liberal attempts to abolish confessional graveyards altogether,632 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.633 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,634 both of which were altered since January 2012. The Funeral Act satisfies individual equality for all because it does not discriminate 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. Section 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.635 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

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631 Estimates speak of 1,487 municipal, 2,733 confessional cemeteries, 267 of which are Jewish.
632 The prominent liberal politician Thorbecke (1798–1872) tried this.
633 Funeral law 1869 Art 19. The Jewish community bought their first cemetery in 1602.
634 Lov om gravplasser, kremasjon og graverd and Lov om Den norske kirke, respectively.
635 Of course, in The Netherlands cemeteries are also part of a cultural heritage and still often carry a confessional color. Yet, the point is to discover important comparative differences.
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 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.

7.3.2 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 3.5 to 5 million, (6.0-8.5% of total population), France has 2 Islamic cemeteries and about 75 Islamic sections in public cemeteries. The Netherlands, for an estimated 1 million Muslims (between 4-6% of total population), has 1 Islamic cemetery and about 70 Muslim sections. Norway, for an estimated Muslim population between 112,000 and 185,000 (2-4% of the total population), has no Islamic graveyards but sections on public/Lutheran graveyards in 20 to 50 municipalities.636 637

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 (see Section 3.2). 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

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637 Prop. 81L, p.11.
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 and 2008). Since 2000, there have been several initiatives at the national level to further improve the situation.

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 in comparison to the other countries. 90% of all Norwegians are buried according to church ritual, a number that has remained rather stable over the years. Less than 15 cemeteries exist with a private confessional status. How does this affect Muslims and humanists? Regarding 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 skepticism was also translated into law: Section 5, which in the previous Funeral Act allowed for consecrating (vigsling) parts of a churchyard for religious communities outside the Lutheran faith, has now been removed. The new passage mentions only the possibility of consecration (innvielse) 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

638 Circulaire n° 75-603 du 28 novembre 1975.
639 As a result of the Consultation on Islam (1999-2003), a working group made inventories of the available burial facilities. A 2006 public commission (the Machelon Commission) recommended changes, yet it remained without any effect. See Section 3.2.1.
640 In 2013 it was 90.2%, a small decline since 2003 (94.4%). Tilstandsrapport for den Norske Kirke: 2014, 21.
641 St. Meld. no. 17 (2007-2008), 105.
642 I base this furthermore on interviews with (Islamic) burial agents (Al-Khidmat).
643 I base this argument on an interview with a senior advisor in the Ministry of Government Administration, Reform and Church Affairs who was directly involved in the formulation of the 2012 Funeral Act. 7 December 2012
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 2). 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 decided on by the religious leader. In Norway, explicit regulations are absent.

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 ‘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 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.

644 It is hard to qualify the regulations here: On the one hand, they are ‘real institutional facts’ prescribed by an administrative decree. Yet, in practice, this was revealed to be a mere way of talking. The cemetery of Thiais does provide for the exact same sections with small hedges, as does de Nieuwe Ooster, the same way of allocating bodies to graves. So, the differences do not lie in the actions, but in how meaning is attributed to them. This insight has grown over time, so much so that, contrary to my writings in the article 2012, I would now qualify them as discursive responses rather than hard institutional facts. The demarcation line between law, institutional fact, and discursive response is not hard drawn.

645 This occurs, of course, preferably in accordance with the wishes of the family, and at the discretion of the cemetery owner. The latter can be a municipal, confessional, or commercial owner.

646 They consider cemeteries a “nonchurch administrative domain” (NOU: 1989, 7, 230).
The three countries do converge in their desire to resolve practical problems related to Muslim migration. In a relatively short time span, Norway has provided for the relevant sections, which without doubt is related to the specific repatriation behavior 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.

7.3.3 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 charge of 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 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 4.1). 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 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 of

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647 Early on, Pakistanis sought to be buried in Norway rather than be repatriated. This differs from the Dutch or French Moroccans and Turkish Muslims.
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.’\textsuperscript{648} 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.\textsuperscript{649} 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 house. But the French consistently navigate between formal ideology and the logic of the terrain. The Dutch lightheartedly frame their arguments in terms of financial and urban-planning concerns. The Norwegians speak about ‘consecrating graves.’

7.4 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 (see Section iv.)? 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.\textsuperscript{650} 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 comparing 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

\textsuperscript{648} These are my words summarizing the respondent’s answer. See Paris contemporary, Section 4.4.1.2.
\textsuperscript{649} There are some differences in whether the groups themselves can restrict access to nonmembers. This is the distinction ‘with’ or ‘without confessional governance.’ This discursive feature is based in the WLB Art. 39.2. Municipalities decide on their own how to divide responsibilities.
\textsuperscript{650} Chapter 2 provides nuances on this. The French legal burial regulations became more laic over time, going from municipalization (1804) to laification (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 (1991). 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.
7.4.1 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 chart below, which summarizes the legal, national, and municipal patterns described above.651

Table 7.1 Master Chart
Institutional (Material and Legal) and Discursive Policy Outcomes at Three Levels Across Countries

<table>
<thead>
<tr>
<th>Countries</th>
<th>France</th>
<th>The Netherlands</th>
<th>Norway</th>
<th>In line with Haï? (laïcité, pillarization, establishment)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Legal frameworks</td>
<td>Prohibition confessional section &amp; cemetery. Discursive: cemetery is seen as a laic space where equality for all is secured.</td>
<td>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 &amp; church autonomy.</td>
<td>Undefined for sections, cemeteries are a legal right. No legal right to a neutral ceremonial room. 1996 change. Discursive: cemetery as embodiment of a cultural and Christian heritage.</td>
<td>Yes. Legal and discursive outcomes reveal strong national differences in line with respective state-organized religions legacies.</td>
</tr>
<tr>
<td>2. National policies and existing provisions</td>
<td>Existence of three Muslim cemeteries and many Muslim sections. Political decrees since the 1975 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.</td>
<td>Many confessional sections only one Muslim cemetery. Not concern of national policy, last revisions in the 1980s regarding burial without a coffin. Discursive: unproblematic.</td>
<td>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.</td>
<td>These strong national differences become less clear when including existing material provisions. Discursive: clear, national differences in terms of political tension.</td>
</tr>
<tr>
<td>3.a Institutional Material/legal</td>
<td>Material: Confessional sections exist, have existed</td>
<td>Material: Range of confessional</td>
<td>Material: Confessional</td>
<td>Materially, there are no national</td>
</tr>
</tbody>
</table>

651 This chart summarizes the findings from Chapters 2, 3, and 4, thereby compiling the tables in Chapter 5 and 6.
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 chart). 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 2.2). 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 established in Chapter 5, when trying to understand similar material outcomes, the descriptive powers of the state-organized religion models are small. 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 ha2 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. And, indeed, a look at the reasons mentioned in the embedded case studies showed that some of these scripts did appear. However, a multitude of reasons played a role, in particular the logic of the terrain and praxis.

For The Netherlands, Ha2 (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. The legal change in 1996 I saw 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. I traced the roots of this disestablishment script back to the history of Norwegian state-church relations since the 1840s (see Section 2.3.3). ‘Establishment’ does provide for a descriptive fit with policy outcomes, but it is a wrong, or at least a too partial, explanation. A more refined and dynamic characterization of the Norwegian model (Ha2) better addresses this. Its different strands – establishment,

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652 See the number of provisions at both the national and the municipal level, rows 2 and 3a.
653 This occurs although the Lutheran public graveyard is paid for by the public budget.
compensatory evenhandedness, 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’ (or disestablishment) of local church and municipal interests. At the same time, it confirms (or at least does not challenge) 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 5.4).

Bader’s meta-framework came to fruition for explaining the lack of Muslim cemeteries in The Netherlands and Norway. Differences in the internal organization of Islam and Judaism explained this better than external factors of governance. My Actor Institution Constellation Chart (Section 5.5) 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 behavior 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. In all local contexts there is respect for death and burial in accordance with ones (religious) conviction (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.

654 Jews have many cemeteries in The Netherlands and some in Norway, while Muslims in both countries have none (or only one in The Netherlands).
7.4.1.1 Discursive Relevance of State-Organized Religion Legacies

To summarize the analysis of Chapter 6, 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 framing). This was again mostly the case in France and Norway. Third, I inquired into the relevance of scripts hypothesized as falling under the Dutch, French, or Norwegian state-organized religion model (Ha2).

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 between state and church’ in the discussion over the public funding of the Islamic washing house. But I found no discursive reference to ‘pillarization.’ 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 own 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. But in an interview with a former national senior advisor it was mentioned as a reason for the 1996 change.⁶⁵⁵ I substantiated it as an essential ingredient of the Norwegian mode of religious governance (see Section 2.3.3 and Section 4.3.4).

As in the other countries, 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. Tension

⁶⁵⁵ Interview Senior Adviser Norwegian Ministry of Government Administration, Reform and Church Affairs, 7 December 2012. See also Alsvik (1995, 111) for a similar argument.
surrounding the topic of confessional sections and private cemeteries comes from this required ‘laïc’ 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. Yet, respondents also situated their arguments in light of the ‘logic du terrain,’ ‘integration,’ or ‘being pragmatic.’ And they weighed different elements of the French state-church legacies against one another. The neutrality of third parties is counterbalanced by more accommodating interpretations of laïcité (Paris contemporary). The mayor of Montreuil avoids framing in terms of laïcité and references the 1905 law to justify how Muslims should “catch up.” The Gallican script seemed relevant for the objection against private cemeteries. The reasoning belies a Gallican/republican fear of broken loyalties between the state and citizens. The ‘associational freedom script’ in Ha2 fit with parts of the mayor of Montreuil’s reasoning.

I concluded that a heterogeneous conception of state-organized religion model (Ha2) 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 Ha1 type of national models, although this was discursively more of an improvement for the French and Dutch model than for the Norwegian one.656

The discursive salience of the scripts of both Ha1 and Ha2, furthermore, may suggest why the conservator in Thiais blushes (see discussion in Section 4.1). 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 thus not in the public part of the conservatory building). Formal burial ideology (called laïc/republican here) 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. That action, in turn, would render public what is in essence a private matter (religion, croyance). 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 still respecting republican/laïc ideology.

The example of the graveyard director in the Hague (“We just put a hedge between the Shia and the Sunni Muslims”) revealed a concern with ieder zijn eigen

656 The added element of ‘municipal disestablishment’ was not visible as an argument in these municipal life worlds.
plekje. We can quarrel about the origins of this latter script, but, arguably, it can be seen as an element of the Dutch state-church legacy – or that of the burial regime (the director 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 true structuring influence in this domain. Graveyard owners have to keep their cemetery financially running as the domain is partially privatized. 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 turned up at least one part of the answer: They want to allow minorities their provisions, even though they are not very fond of public divisions. Thus, they avoid creating ‘hard sections’ and private Muslim cemeteries for explicit reasons of ‘social democracy.’

In other words, these institutional legacies suggest why the French ‘individualize’ and are against private cemeteries – because of strict neutrality script and republicanism. They suggest why the Norwegian propose ‘soft sections’ and do not like private cemeteries (‘establishment’/‘social democracy’). The Dutch are little constrained by state-church relations, except regarding the question of publicly financing the washing house. Commercial and urban-planning concerns proved more relevant for their public reasoning. In sum, discursive responses reveal the relevant sources of authority in light of which the administrator makes sense of his actions.

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 6.4). Mapping discourse engages public justifications, yet justification does not always equal motivation: There is often a multiplicity of causes. Last, underdeterminacy means actors can interpret a given commitment (say ‘evenhandedness’) in a variety of institutional ways. Nevertheless, it is unclear what

657 ‘Everybody their own spot’ agrees with a concern of ‘principled pluralism.’ In this context, he also grounds that commitment in financial concerns. We could even say that ieder zijn eigen plekje aligns with what I in this study call ‘the logic of the terrain.’

658 Respondents are not always transparent about, or aware of, their own motives.
precise institutional solutions follow from it.\textsuperscript{659} Moreover, evenhandedness can be grounded and interpreted in light of several regimes.\textsuperscript{660} Thus, the elements in the institutional model are interpretable from many different perspectives of the life-world. But they 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.

\subsection*{7.4.1.2 “How Is Secularism Used and Argued for”?}

Finally, then, our last research question takes up the challenge of multiple lines of interpretation. In answer to this question, I found that in France \textit{laïcité} (ha1) was an actual term from the life-world. Following my own suggested research strategy of perceived versus actual deployment (Section 1.3.4), \textit{Laïcité} was both an action guiding idea (“I do this \textit{because of} laïcité”) as well as a framing issue. Yet, \textit{laïcité} was only one idea. As in the other countries, respondents talked in terms of general principles, using ideas such as ‘logic du terrain,’ ‘not to shock,’ ‘logic,’ ‘sacredness of death,’ ‘satisfy the customer,’ to justify their actions. At the level of framework issues, \textit{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).\textsuperscript{661} 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

\textsuperscript{659} We as scholars might judge an institutional outcome to be in line with the script and furthermore conclude that it is \textit{caused} by reliance on the script. Yet, there might have been other reasons for choosing that solution. Or, reversely, we might judge certain institutional solutions not to be in line with the script or institutional factor (state-church legacy). Yet, the respondent interpreted it that way.

\textsuperscript{660} So, should we interpret a commitment by the Dutch graveyard owner who provided for the seven gravefields in order to give “full freedom to each group” as a sign of the effect of the burial regime (Article 39 of the National Burial Law (Wlb) as an internal, heterogeneous, state-organized religious regime (Ha2) – or simply as the result of his wish to make money (commercial exploitation)?

\textsuperscript{661} See Discursive Chart 6.2, Level 2, or in the Master Chart, Level 3b.
extent ‘integration.’ Only the French see this as concerning ‘secularism’ as well as ‘pragmatism,’ ‘logic 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 the discursive Chart 6.2, Level 3). Lastly, when explicitly asked (quotations in Section 6.5.2), 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 6.5.2). In sum, for this study, but I would nevertheless argue for ethnographic comparative purposes in general, ‘secularism’ being an inappropriate structuring concept.

My argument could have ended here. 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 are simply not always visible in the discourse, for example, ‘the logic of the terrain.’ 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 Talal Asad. Second, people’s behavior 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. But

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662 French burial agents mention this explicitly, though it is absent from the Dutch and Norwegian discourses. Yet, it is rather self-evident in the Dutch reasoning; captured by “everybody their own spot.” 663 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
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 thesis 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 6.6.1 and 6.6.2, 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: “Norway does not like privatization. We should all be buried next to each other in the same soil.” 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 symbolic argument of administrative inequality, to a solution that offers ‘individual consecration.’

A look at the explicit arguments shows Norwegians do not like ‘hard’ 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: “We are a pragmatic people” (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.

So, yes, this does intimate the role of sensibilities. Yet, are these secular sensibilities? Thus far in the analysis, I have interpreted the objection against private

*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.

664 KA representative.
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 (Level 5, Discursive Chart and Section 6.2.2), 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 broader metacultural, action-guiding metaphor.665 As Rein and Schön (1994, 33-34) suggest:

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.

This 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 prevail the differences between contexts. Again, this does not mean that the scholar could not interpret some of the material as different secular sensibilities; this then 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. So, 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

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665 The logic of inquiry here is not to situate and interpret the discursive findings of the embedded cases within their national context (this I have done amply). Rather, it is to challenge this national methodological approach from a metacultural/transnational point of view.
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. Last, 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 6.5). Yet, the analytic frameworks of Asad, Hurd, and Mandair do not allow for specifying the noncase. They also foreclose the possibility that, for the laymen, something can be about religion and whether the state “facilitates religious communities?”666 But for the laymen it has nothing to do with ‘secularism’ or ‘being secular’ (see quotations in Section 6.5.2).

The 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). Neither could one call current burial regulations in Norway 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 are all but lost on the Asadians. In the heuristic of Asad, Hurd, and Dressler/Mandair, each instance of religion-making is a case of secularism (Section 1.3). In other words, the meaning and conceptual hierarchy of the terms in the life-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 6.3.3).

7.4.2.2 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, Bobby Sayyid it raises questions

666 I rely on the words of the burial juridical expert in The Netherlands (Section 6.5.2).
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 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.667 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 secularism, then they will have to 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 life-world? Well, for one the contributors to this debate agree about being skeptical toward grand narratives. Referring once more to Asad’s own words (Section 1.3.4.), 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

667 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.
alternatively add “post-” signifiers. Scholars need a language that is better suited to describe ways of life. Casanova 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.668

I do not think we need to travel outside the West to see this.

7.5 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 implications. The theme of reification was central to the two scholarly literatures on which this thesis rests. For Asadians, showing how ideas or cultural practices “are discursively reified as ‘religious’ ones” has a deconstructive purpose.669 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.670 Political scientists in the immigration literature question reified one-dimensional 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, should both scholarly agendas reckon with the limitations that come from a mere discourse analytic approach. I illustrate with three examples.

668 Casanova: 2013, 46.
669 Dressler and Mandair (2011, 21).
670 King (2011, 38) speaks of religion as an “imaginative cartography of western modernity.”
7.5.1 Deepening the Thematic of Scholarly Reification

I. Reification through the one-dimensional national model. By now well established is the fact 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 pictures nevertheless retain some validity: They are still partially reflected in the (legal) burial rules – which is 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. In line with Bertossi and Duyvendak, I concur that “Social contexts, concrete interactions and institutional settings are curiously never the place where ‘model scholars’ do any research” (2012, 241).

But I found an even deeper reason for these national images being reproduced: They surface in the public reasoning of local agents themselves. Bertossi 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 higher 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, 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 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 humanist are (somewhat annoyingly) political actors and thus not ‘religious.’ What matters for the burial professionals is being pragmatic and caring about consecration. The humanist principled complaint thereby misfires. 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 house.

II. Reification by mistaking discursive relevance for explanatory relevance. Concerns with reification also resulted in an investigation of proposals for more nuanced modeling. 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 associated 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 logic du terrain and the pragmatism that comes with this institutional domain.

671 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, simultaneously they do not want to be like the other religious groups.
Some of these scripts in Ha2 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 that looking at changes in the public framing of an issue can help us to understand differences in policy responses. Yet, I qualify that argument by saying that the framing issues (institutional regimes, among which the state-organized religious legacies) better explain the discursive policy responses\(^{672}\) 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 study 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 Veit Bader’s wording, evoking secularism means “going meta.”\(^{673}\) 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 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”\(^{674}\) and questions about religion as a universal category within religious studies, there is also debate in a range of disciplines about whether to abandon the scholarly terminology of secularism altogether.\(^{675}\) Veit Bader makes this argument most forcefully for the

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\(^{672}\) How they understand the solutions provided for and the possible social tension (or lack) involved.

\(^{673}\) 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 (Bader: 2007a, 93).

\(^{674}\) Stark and Iannaconne (1994, 231)

\(^{675}\) 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 and Hurd: 2010, 23).
purpose of political theory and the social sciences. I lean on Bader’s argument that the terminology of ‘secularism’ makes scholars focus on the wrong Leitzdifferenz. My contribution has been to engage this meta-analytic discussion from within the analysis of concrete life-worlds and to extend it to descriptive and genealogical ways of working with secularism. Yet, 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.677

However, and this constitutes the 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.’

7.5.2 Engaging the Discursive Turn

At the utmost general level, then, this thesis has engaged the question: How do states respond to the new diversity? By way of the shortest answer: they respond legally and discursively very differently, yet act in a similar way. 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.678 Professional public discourse played a role insofar as the decision-makers makes sense of the burial demand in light of these factors through their discourse (d). Because public discourse is amenable to change679 other public framings might lead

676 See the discussion between Bader: 2009b and Bhargava: 2009b.
677 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 and 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.”
678 These encompass professional codes, cultural narratives/sensibilities and a logic du terrain.
679 Changes might occur because of a crucial event, a media controversy, different discourse-alliances or larger changes in the normative value systems of the society.
to other regulations. And agents can reinterpret a given institutional script through their discursive foreground abilities, resulting in different actions.

The thesis 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 is 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 as in line with the model. When applied to the literature on state-church legacies, this allows for richer and more descriptively accurate\(^{680}\) 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 (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).

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 be interpreted as proof of the institutional model. Additionally 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/categories and empirical reality.

\(^{680}\) They describe more accurately the variety of (normative) and possibly contradicting strands of reasoning.
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. But even if we take them to task on the level of analysis at which they are best – discursive mapping – the risk of over-interpretation 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 being open to the meaning-giving process of the life-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 on the situation of Islam – and humanists – in Europe. They relate meta-analytical concerns regarding appropriate scholarly concepts to concrete life-worlds and vernacular understandings. 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 “nothing is eaten as hot as it’s cooked” (in accordance with the Dutch proverb “De soep is niet zo heet als hij wordt opgediend”). 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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681 See my discussion of Asad in Chapter 1.3. He shifts register in his style of analysis 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.

682 I call this reification, the inadequate reduction of complexity, or indiscriminate secularism making.


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List of abbreviations

AFIF Association Française d'Information Funéraire
B&W Burgemeesters en Wethouders
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 Reflexion 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
Wlb Wet op Lijkbezorging
SMRE Swiss Metadatabase of Religious Affiliation in Europe
SSB Statistisk sentralbyrå
UMP Union pour un Movement Populaire
Appendix I: Research Questions at Different Levels of Analysis

Level A: Meta level Question.
How do states respond to the new (religious and cultural) diversity?

Level B: General Research Questions
1) What are the institutional and discursive policy responses to Muslim and humanist burial needs, and related processes 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 (Comparing outcomes at three levels of governance across national contexts, Chapter 5 and 6)
This level of analysis connects the outcomes of level D to the comparative questions of national differences and the relevance of Ha1 and Ha2. Questions operationalized are:
1) What are the legal and national policy level outcomes for each national context (specified in institutional and discursive terms)? Do burial outcomes fit the expectations following Ha1 and Ha2?
2) For deriving the municipal pattern; Institutional; what types of institutional solutions do we see across embedded cases across countries? What pattern of similarities and differences arises?
3) What has been the role of Muslims/humanists themselves in the process? (This serves to understand the more general process of institutionalization of ‘religion’, see actor constellation chart).
4) Discursive; what pattern of similarities and differences arises when comparing discursive municipal responses?
5) What is the relevance of a state church legacy (as a ‘model of’), and a state church legacy and ‘secularism’ and as discursive trope (‘model for’) for understanding municipal outcomes? The general research question 2 is thus operationalized as a descriptive device and a discursive trope.

Level D: Questions Operationalized within Each National Context and Embedded Case Study (Chapter 2, 3, 4)
This level provides the basic information for formulating the legal, national policy level and municipal patterns in Chapter 5 and 6. At this level we are not yet concerned with the role of a state church legacy or secularism. But we open the analytic gaze widely by simply asking what they do, argue and how they perceive the matter.

1) What is the formal legal framework in regards religious diversity in the cemetery? What are the institutional characteristics of this domain (who owns, pays for, administratively governs cemeteries)? What is the implicit social imaginary of the cemetery in the legislation? What is the historical context of state church relations that plays into these burial regulations? (Chapter 2)

2) What policy guidelines and changes have occurred in this domain over time in response to minorities’ demands? What are the institutional and discursive political responses and related processes in responding to Muslim and humanist burial needs? (Chapter 3)

3) For each embedded case study: What are the different existing institutional formats that are currently in place or which are being proposed to accommodate Islamic and humanistic practices? Who are the relevant (Muslim/humanist) actors involved and what did the process entail? Why does the confessional section/cemetery exist (or not)? Discursively, how is the solution perceived? What (normative) reasons are given for the institutional solutions chosen, or those explicitly avoided? What terminology and frameworks do actors/public documents use? (Chapter 4)

Level E: Questions posed to the individual respondents.
Appendix II: Overview of Interviews

### Interviews held in France

<table>
<thead>
<tr>
<th>Function/ Position Respondent</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Advisor of the Major and City Council, Bobigny,</td>
<td>2 February, 2009</td>
</tr>
<tr>
<td>2. Functionary in <em>Les Amis du Musée Funéraire National d'AMFN</em></td>
<td>3 February, 2009</td>
</tr>
<tr>
<td>3. Sociologist</td>
<td>4 February, 2009</td>
</tr>
<tr>
<td>5. Former advisor to Minister of Interior and Professor Imam Teaching at the Catholic Seminar, Paris.</td>
<td>5 February, 2009</td>
</tr>
<tr>
<td>6. Former Président of the CRCM Rhône d'Alpes</td>
<td>10 February, 2009</td>
</tr>
<tr>
<td>7. Member of the commission <em>carrés musulmanes,</em></td>
<td>11 February, 2009</td>
</tr>
<tr>
<td>8. Muslim Burial undertaker in Lyon.</td>
<td>12 February, 2009</td>
</tr>
<tr>
<td>11. Administrative Director of the cemetery services <em>Directeur du service des cimetières de Paris</em></td>
<td>9 October, 2012</td>
</tr>
<tr>
<td>12. Administrative leader of the civil services and cemetery services (<em>Responsable du service Etat civil/Cimetière</em>) in Montreuil Assistant of the office of conservation (<em>Adjoint du Bureaux des conservations</em>).</td>
<td>4 October, 2012</td>
</tr>
<tr>
<td>13. Former Mayor, Montreuil.</td>
<td>10 October, 2012</td>
</tr>
</tbody>
</table>

### Interviews held in Norway

<table>
<thead>
<tr>
<th>Function/ Position Respondent</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>4 November, 2018 (phone)</td>
</tr>
<tr>
<td>2. General Secretary for the Council of Free Churches <em>Friki rkelig Råd</em></td>
<td>24 November, 2008</td>
</tr>
<tr>
<td>3. Department Head Churchly Employer and Interest Organization KA (<em>Kirkelig arbeidsgiver og interesseorganisasjon</em>)</td>
<td>23 October, 2008</td>
</tr>
<tr>
<td>4. Representative Al- Khidmat Islamic burial agency, Oslo</td>
<td>23 October, 2008</td>
</tr>
<tr>
<td></td>
<td>29 April, 2009</td>
</tr>
<tr>
<td>6. Church Minister (sogneprest) in Elverum and dean of church (prost) i Sør Østerdal prosti</td>
<td>17 November, 2008</td>
</tr>
<tr>
<td></td>
<td>23 July, 2009</td>
</tr>
<tr>
<td>7. Former Director General of the Department of Ecclesiastical Affairs</td>
<td>1 November, 2012</td>
</tr>
<tr>
<td>8. Senior Adviser Norwegian Ministry of</td>
<td>7 December, 2012</td>
</tr>
</tbody>
</table>
Government Administration, Reform and Church Affairs.

9. Dean of Church Trondheim (prost) i Gaudal prosti. 17 October, 2013


11. Church Warden in Støren 18 October, 2013


**Interviews held in The Netherlands**

<table>
<thead>
<tr>
<th>Function/ Position Respondent</th>
<th>Date(s) of interview(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Director Municipal Cemeteries, The Hague, Director Catholic Cemetery (Stichting Rooms Katholieke Begraafplaatsen te ’s- Gravenhage), Legal expert (Jurist)</td>
<td>4 December, 2008</td>
</tr>
<tr>
<td>4. Representative Humanistic Organisation Humanistisch Archief, Amsterdam</td>
<td>4 December, 2008</td>
</tr>
<tr>
<td>8. Historian burial history</td>
<td>Augustus 14, 2012</td>
</tr>
</tbody>
</table>