



© privat

Michael Mousa Karayanni, LL.D., S.J.D.

Bruce W. Wayne Professor of Law

The Hebrew University of Jerusalem

Born in 1964 in Kafr Yasif, Israel

Studied Law at the University of Pennsylvania Law School, The Hebrew University of Jerusalem, George Washington University National Law Center, and Bar-Ilan University, Ramat-Gan

PROJECT

A Multicultural Entrapment: Religion and State Among the Palestinian Arabs in Israel

In the nation state structure that assumes an official status for the majority religion, as is the case in Israel, there is a dominant constitutional force deeming the jurisdiction of minority religions a form of multicultural "accommodation". This accommodation, in turn, gives rise to a unique, acute, undetected and heretofore unstudied individual predicament for vulnerable minority members who are subject to the patriarchal religious norms of their respective religions. This is the "multicultural entrapment" that emerges, first, in light of the substantive jurisdictional authority held by the minority religious communities. Second, the Israeli nation state structure actively boxes individuals in their respective religious identities, thus severely limiting the civic sphere that seeks to compete for the well-being of all citizens alike and to offer an alternative to which minority members can at least opt out to. Moreover, evaluated in reference to what I call "multicultural qualifications", the religious jurisdictional authority of the Palestinian Arab minority does not qualify as multicultural, but is in fact a control mechanism. Nonetheless, institutional interests, including those of minority leadership, work to mask this jurisdictional authority as a liberal minority accommodation. Identifying the individual predicament that results from religious jurisdiction over individual personal status as a multicultural entrapment enhances the prospects of offering mechanisms to alleviate it. By addressing this multicultural entrapment, the proposed project departs from the existing discussion, as it focuses on individual predicaments of religious minority members in the context of a nation state, rather than in the usual context of a Western liberal democracy; and it departs from the discussion of religious minorities in nation states by exposing oppression as a consequence of over-accommodation, rather than in the usual context of under-accommodation.

Recommended Reading

Karayanni, Michael. "Multiculturalism as Covering: On the Accommodation of Minority Religions in Israel." *The American Journal of Comparative Law* (16 November 2018). doi.org/10.1093/ajcl/avy039.

-. *Conflicts in a Conflict: a Conflict of Laws Case Study on Israel and the Palestinian Territories*. Oxford et al.: Oxford University Press, 2014.

-. "Groups in Context: An Ontology of a Muslim Headscarf in a Nazareth Catholic School and a Sephardic Ultra-Orthodox Student in Immanuel." *Law & Social Inquiry* 41, 4 (2016): 789-1115.

A Multicultural Entrapment: Religion and State among Palestinian-Arabs in Israel

My presentation will open with an inquiry into the nature of the Israeli debate over religion and state - a debate that is Jewish-centered, especially when it comes to halacha (Jewish law) in matters of personal status. This would seem rather peculiar in light of the fact that those issues touching upon the state and minority religions take center stage in many other countries around the world; and over 20 percent of the Israeli population is non-Jewish - Muslims, Christians, the Druze - who have their own religious laws which govern their members in matters of personal status. I will posit a thesis explaining this Israeli phenomenon in which different values characterize the religion and state debate in this and possibly other countries as well. I have dubbed this the Janus-faced thesis: The Jewish religion and Israeli state are informed by two different values - Judaism as the official state religion, yet the recognition accorded to Jewish religious institutions, especially the rabbinical courts, is considered illiberal (the public-illiberal paradigm) - while the Palestinian-Arab religion and state is informed by two values which are exactly the opposite, for Palestinian-Arab religions are unofficial (private) but liberal if and when recognition is accorded to their religious institutions (the private-liberal paradigm). This Janus-faced thesis identifies a peculiar predicament among individual Palestinian-Arabs: not much of liberalism is left to protect them against encroachment of their patriarchal religious norms applied by their religious communities. However, in light of the fact that their religious jurisdiction is not liberal (multicultural) even though it is presented as such, their predicament is essentially a form of entrapment.

I see this project as a new departure in four respects. First of all it opens a new chapter in the Israeli religion/state debate by including the Palestinian-Arab minority in the debate rather than excluding it as has been the tendency hitherto. Second, this project is a new departure in the practice of multiculturalism as a normative theory, since its focus is minority-majority relations in a nation-state rather than in the usual context of a Western democracy. If the accommodation of religious minorities in the West thus raises concerns about the multicultural predicament, even when such accommodation is slim to nonexistent, then the more substantive accommodation of religious minorities in nation-states necessarily gives rise to a more acute form of this predicament that has not yet been adequately diagnosed. Third, I will introduce a concept that I call "multicultural entrapment." What might seem the multicultural accommodation of a minority group turns out to be a state mechanism of control and dominance over the minority group itself. This entrapment persists primarily because both the state and the minority are too "embarrassed" from a legal standpoint to admit that their interest lies in the boxing-in of identities. Four, by laying bare this multicultural entrapment, I seek to not only uncover yet another form of minority oppression in a nation-state but one that results from the over-accommodation of a minority group rather than the usual and doubtless still persistent mode of under-accommodation. By uncovering this multicultural entrapment, my claim is that the violation of minority rights in nation-states can be a result of the over-accommodation of minorities rather than their under-accommodation. Finally I will take up the challenge of proposing a number of ways by which multicultural entrapment can be mitigated to the benefit of vulnerable Palestinian-Arabs.

PUBLICATIONS FROM THE FELLOW LIBRARY

Karayanni, Michael Mousa (2021)

The private international law of class actions : a functional approach

<https://kxp.k1oplus.de/DB=9.663/PPNSET?PPN=1793910413>

Karayanni, Michael Mousa (Cambridge,2021)

A multicultural entrapment : religion and state among the Palestinian-Arabs in Israel

<https://kxp.k1oplus.de/DB=9.663/PPNSET?PPN=1699743371>

Karayanni, Michael Mousa (Cary, NC,2018)

Multiculturalism as covering : on the accommodation of minority religions in Israel

<https://kxp.k1oplus.de/DB=9.663/PPNSET?PPN=1668783274>

Karayanni, Michael Mousa (Malden, Mass.,2016)

Groups in context : an ontology of a Muslim headscarf in a Nazareth Catholic school and a Sephardic ultra-orthodox student in Immanuel

<https://kxp.k1oplus.de/DB=9.663/PPNSET?PPN=1668670631>

Karayanni, Michael Mousa (New York [u.a.],2014)

Conflicts in a conflict : a conflict of laws case study on Israel and the Palestinian territories

<https://kxp.k1oplus.de/DB=9.663/PPNSET?PPN=771460392>

CILE studies ; 5

<https://kxp.k1oplus.de/DB=9.663/PPNSET?PPN=771460392>

Karayanni, Michael Mousa (Oxford,2012)

Two concepts of group rights for the Palestinian-Arab minority under Israel's constitutional definition as a "Jewish and democratic" state

<https://kxp.k1oplus.de/DB=9.663/PPNSET?PPN=1668671409>

Karayanni, Michael Mousa (Buffalo, NY,2010)

In the best interests of the group : religious matching under Israeli adoption law

<https://kxp.k1oplus.de/DB=9.663/PPNSET?PPN=1668669358>