The Limits of Religious Tolerance – a European Perspective*

The paper deals with the question of religious tolerance in Europe's past and present. Tolerance within Christianity (and within the other so called "Abrahamitic" or "Biblical" Religions) is one of the main points. However, the reader is also invited to take a brief look at Europe's pre-christian past. To some extent, the religious situation of the Roman Empire in particular rather seems to resemble our own experiences with pluralistic societies in today's Europe than medieval and early modern circumstances would do. Even the ancient problems with "religious freedom" can be linked with modern counterparts. So this paper will avoid long retrospectives at the well known facts of Europe's Christian past such as inquisition and European religious wars in order to deal with some more hidden perspectives of European religious history, which were often obscured by the main historiographical narrative.

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„Es erübrigt sich der historische Nachweis, daß die Geschichte des Christentums, in dieser Hinsicht die Geschichte jedes Offenbarungslaubens ähnlich, auch eine Geschichte der im Namen der absoluten Wahrheit geübten Intoleranz ist.“[1]

The question of religious tolerance within Christianity (and within the other so-called "Abrahamitic" or "Biblical" Religions) is certainly most relevant for medieval and modern Europe. I shall return to it soon. However, before doing so, the reader is invited to take a brief look at Europe's pre-Cristian past. To some extent, the religious situation of the Roman Empire in particular seems to resemble our own experiences with pluralistic societies in today's Europe rather than medieval and early modern circumstances. Even the ancient problems with "religious freedom" can be linked with contemporary counterparts. So this paper will avoid long retrospectives at the well known facts of Europe's

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Christian past, such as the inquisition, the European religious wars, and the rising of religious intolerance in the wake of the western reform movement, in order to deal with some more hidden perspectives of European religious history, which are often obscured by the main historiographical narrative.

1. Religious (In)tolerance in a pluralistic environment

It is well known that the process of expansion and the melting of cultures in the Mediterranean region (and in the course of Romanization also in Celtic Europe) of antiquity caused comparably few problems regarding religious questions. When the Roman Empire expanded, the already existing religious plurality offered the structural basis to integrate further deities into its pantheon[2]. Further on, the technique of interpretatio allowed the acceptance of a foreign deity as the equivalent of a deity worshipped according one's own religious tradition. When religious pluralism became more important in republican and early imperial times, people were relatively free to make their own choice concerning what deities they wanted to worship, or in other words, in what cult they wanted to participate actively. In general, this choice was motivated by local traditions as well as family traditions. But also professional and/or other personal criteria played a role. Also there are significant structural parallels concerning the variety of personal religious praxis of the pagans of antiquity and traditional Orthodox and Catholic veneration of saints. For the single believer it was possible to show veneration to various deities as it was possible to be initiated in various mysteries. Individuals could officiate subsequently as priests of different cults or occupy various priestly functions at the same time. Nor was it completely impossible to be an atheist in practical terms or to adopt a *de facto*–monolatrism[3]. But such self-restriction in general did not imply the explicit denial of other deities nor a strict refusal of other religious forms. In this respect polytheistic religions, which are realised in various cults, are more tolerant in principle than the monotheistic religions[4]. However, this tolerance is not without limits[5].

Recent developments in India reveal a potential for fundamentalist violence in modern Hinduism. But even in ancient times, religions with a polytheistic structure based on a plurality of cults revealed potentials of intolerance. In principal, heresy and persecution due to religious reasons are alien to religions that do not have dogmas nor "ecclesiastical" structures[6]. Nonetheless the introduction of foreign cults and unaccustomed religious ideas of individuals could cause irritation even in a polytheistic milieu.

Three levels of religious intolerance can be observed:

(1) intellectual criticism of particular practices and/or religious ideas as *"superstitio"* (the classical Roman term for the opposite of true *"religio"*) or *"atheism"*;

(2) a lack of social acceptance, which could lead to stigmatisation and marginalization, or might even result in physical violence against a person;

(3) and finally, the use of political and juridical instruments in order to put strict limits to a cult/a religion or to stop it completely. In the following, I shall concentrate on the third level.

1.1.1. The Prosecution of "impiety" and foreign cults in Ancient Europe

Single cases are known wherein the Greek *polis* sentenced a person because of *"asebeia"*, "impiety" (and, vice-versa, declared what would be considered respectful behaviour towards the city's deities). Most famous is the case of Socrates, who was sentenced to death for seducing Athens' youth, for destroying the belief in the city-deities, and for the introduction of new gods 399 B. C.[7] Flavius Josephus reports another case, where a Greek priestess was sentenced to death when she had been accused of teaching foreign gods[8]. Though not a problem in principle – Athens had formally adopted various new deities during the 5th century B. C. – novelties in the religious sphere could cause social irritation, which in particular cases ended up in legal prosecution.

At times, the introduction of a foreign cult also caused problems in Ancient Rome, and was accompanied by legal measures as in the Greek cities. In the second century the cult of Bacchus (in Greek, Dionysus), a cult with orgiastic features, spread from southern Italy to Rome and triggered hostile reactions on the part of to the Roman Senate. Exact information on the cult is lacking. Surviving source-materials, such as Livy's account[9], are all from the side of the opposition. Here, the emphasis is on the immorality and on the political threats implied in the cult. In 186 B. C., the Roman Senate enacted a decree against the adherents of Bacchus. The decree survived on a bronze tablet, though in a slightly revised version addressing cities from south Italy[10]. It did not ban the cult completely, although there were strict injunctions against it. The Senate declared all activities in connection with the cult - such as the construction of a shrine, the nomination of a priest and all performance of rites in public as well as in private – illegal, unless explicit permission was given by the competent authority. In other words, the Roman elite tried to submit the adherents of the suspicious cult to maximal supervision of the civic authorities. As it seems, the rationale for those measures was not so much religion in a narrow sense, but civil order.

1.1.2. Restrictions against NRM in modern democratic societies

Thus the irritation caused by the cult of Bacchus as well as the measures taken by the Roman Senate might be compared to current problems in our days, when European societies are challenged by New Religious Movements[11]: Conflicts seem almost unavoidable when

a group obviously departs from generally accepted social values and/or tends to come in conflict with those general laws which result from this social consensus. The problems resulting from single divergences - such as the denial of military service or of special forms of medical treatment by members of a religious group such as Jehovah's Witnesses - in general can be solved within a democratic framework in a satisfying way in terms of religious liberty and liberty of conscience as well as of the necessities to protect public order and the rights of others. It is, however, much more difficult to bridge the gap, when a NRM explicitly aims to undermine the democratic and pluralistic principles of the constitutional state. Therefore institutionalized monitoring as well as legal restrictions for some groups with a religious self-image can become an issue even within societies where religious tolerance is considered a positive value and the general standards for religious freedom are high. The USA-based human rights organisations as well as the US-government are quick in assuming that a measure taken by another country implies a violation of freedom of religion. However, a rising European consensus can be observed, that some restrictive measures in this particularly sensitive area cannot be avoided[12].

While there is a wide consensus that some activities and practices (such as sexual abuse of children, drug-trade, or the instigation to commit suicide), which are reported in connection with single groups, are to be considered criminal and punishable under general law, the evaluation of others (in particular the use of specific psycho-techniques or specific educational practices) is more debated. In general, the total ban of a particular NRM will not be in conformity with basic rights, although civil society might have quite legitimate reasons for feeling uncomfortable with often reported practices and particularly repressive hierarchic structures (such as strict social control and the psychological manipulation of members, and social pressure on persons who want to leave the movement) of various of these groups. In any case, according to European human rights standards, registration as a religious community or with another legal status (association) does not necessarily imply that the unregistered group is denied religious activities[13].

Single European countries follow an even more restrictive policy. They tend to exclude the practitioners of a particular religious belief, which is considered to be incompatible with general civic values, from sensitive jobs in civic administration[14] and/or had court-decisions which declared such persons as less eligible for guardianship[15]. While such decisions were rather disputed[16], there is a wider ranging consensus, that the scene of NRM deserves some monitoring as well as a specific information-policy insofar as children and youth are concerned.

1.2.1. The prosecution of "sacrileges" by ancient Greek and Roman authorities

The term "sacrilege" (*sarcrilegium* in Latin) points to another area of conflicts which to some extent are shared by ancient as well as modern societies. As far as is known, court-proceedings and the enactment of new laws in order to ban or restrict a particular cult only rarely occurred in antiquity. However, it was standard that the ancient states prosecuted the disturbance of the possessions of a deity (e.g., the sacred olive trees in Athens), as well as the disturbance of a ritual or of the figurative representation of a god or goddess.

Furthermore some incidents reported in *Lives of Christian Martyrs* have to be understood in this context, e.g., when Thecla is said that she responded to sexual harassment by tearing off the wreath of her offender[17]. This accident, already reported in the *Acts of Paul (and Thecla)*, a very early source of the 2nd century, is followed by Thecla's trial[18]. It is significant in this story that the sentence *ad bestias* does not refer to the woman's Christian confession as such. She is sentenced as *hierosylos*[19], i.e. for *sacrilegium*. The accusation must refer to the tearing-off of the wreath, which was a religious symbol in the pagan-context. So Thecla's offence might be compared to tearing the robe of a priest or taking his pectoral in the Christian reference-system.

This comparison might help one to understand that the prosecution of such an offence should not be too simply referred to as "religious intolerance". Legal prosecution for disturbing a religious ceremony or for destroying a pagan statute or – *mutatis mutandis* - for destroying a Christian icon must rather be seen in terms of the protection of the religious space.

1.2.2. Protection of the religious space within the framework of modern pluralistic societies

It seems self-evident that modern democratic states will prosecute such incidents when the violation of personal integrity or property rights are implied, but also that in other cases judicial interference might be justified or even commended. As a recent Austrian law commentary put it: The modern state *"ist nicht mehr Träger von Toleranz im Sinne einer Duldung von anderen, sondern er ist zum Hüter der Toleranz im Sinne eines in der pluralistischen Gesellschaft geltenden Rechtsgebotes geworden."*[20] Thus modern democratic states, which in principal adopt an attitude of neutrality in matters of religion and belief in general, do penalise facts with a religious connotation as European societies always did. However, the main rationale of the respective laws of European criminal codes has considerably changed over time: today it mainly consists in the protection of religious peace among the people of a country rather than in the protection of a particular belief or cult as such[21].

For example, there have recently been several cases when a theatre-production or film had to be cancelled according to the ruling of a court, which considered the piece liable to hurt religious feelings and thus to disturb the social peace in a country. Religious neutrality from

the part of the state does not hinder a certain protection of believers against the religious intolerance of non-believers, as it otherwise does not hinder the protection of non-believers against aggressive forms of missionary practices[22]. *"Those who choose to exercise the freedom to manifest their religion, irrespective of whether they do so as members of a religious majority or a minority, cannot reasonable expect to be exempt from all criticism. They must tolerate and accept the denial by others of their religious beliefs and even the propagation by others of doctrines hostile to their faith. However, the manner in which religious beliefs and doctrines are opposed or denied is a matter which may engage the responsibility of the State, notably its responsibility to ensure the peaceful enjoyment of the right guaranteed under Article 9 to the holders of those beliefs and doctrines. Indeed, in extreme cases the effect of particular methods of opposing or denying religious beliefs can be such as to inhibit those who hold such beliefs from exercising their freedom to hold and express them."*[23] The European Court of Human Rights stresses, that the countries enjoy *"a certain margin of appreciation"*, what would be reasonable and efficient ways to grant protection for basic rights. When conflicts of interest arise, the right of religious freedom should be particularly highly estimated, but, of course, must nevertheless be mediated with other basic rights, such as the freedom of art and science, e. g. So recently Austrian public prosecutor's office refused complaints against a book, which mocks at the church as well as at Jesus and therefore is considered to be blasphemous by a considerable number of people[24]. In other cases however, there were sentences which declared that the performance of a theatre piece or film, e.g., which was liable to offend Christian believers, had to be cancelled.

The much debated Austrian case of a film based on the piece "Das Liebeskonzil" passed European instances. While the European commission ruled that the decision of the Austrian courts to forbid the performance and to confiscate the film was not appropriate, the final decision of the European Court of Human Rights ("Otto-Preminger-Institut v. Austria"[25]) adjudged the ruling of the Austrian courts. It argued, that *"it is not possible to arrive at a comprehensive definition of what constitutes a permissible interference with the exercise of the right of freedom of expression where such expression is directed against the religious feelings of others. A certain margin of appreciation is therefore to be left to the national authorities in assessing the existence and extent of the necessity of such interference. The authorities' margin of appreciation, however, is not unlimited. [...]"* In other words: There is no universal standard which could be applied to any comparable case, as even the same piece might be likely to cause greater turbulence in a country, where a majority of people is rather religious in traditional terms, but not in another, where the general attitude is more liberal. According to the judgment of the European Court of Human Rights, it might even occur that different standards have to be applied in one and the same country (e. g., making a regional difference between the countryside and larger cities). Sometimes it might also be opportune that a court, deciding on a particular case, takes into consideration that a religious minority is more vulnerable (and

thus might react also more sensitively) than the well established majority.

2. The collision of polytheistic and monotheistic beliefs

However, before going on with modern issues, the religious history of antiquity deserves more attention. As it is well known, the most known religious conflict of antiquity concerned Christianity. All three levels – intellectual discussion, social acceptance, as well as the political and judicial sphere – were concerned[26]. During the last decades the scholarly debate on the relationship of early Christians and the Roman state (as well as on the part which the Greek cities of the Roman empire had in the rising conflicts[27]) changed the traditional picture of three centuries of permanent persecution. Instead of the traditional interpretation, it is now asserted that long periods of a relatively comfortable status of the Christian minority within Roman society even before its formal legitimisation under Constantine can be detected. However, nobody can deny that an only peaceful picture does not reflect the historical reality. There was more than a single local conflict (as reliably reported by the Acts of Perpetua and Felicitas, for example). Although traditional Christian historiography certainly tended to overdo the extent of ancient Rome's intolerance against its Christian minority, admittedly, organised persecutions took place, in particular in the third and at the beginning of the fourth centuries.

The Roman problems with Judaism and - to a much larger extant - with the new form of biblical religion, Christianity, are not typical of Rome's pluralistic society. Indeed, they resulted from the extraordinary collision of two totally different religious systems, from which one was traditionally linked with the political sphere. When Rome expanded to Greece, for example, it was comparably simple to combine the two different religious systems, which shared a common structure at least in principal. When the Jewish people became part of the *pax Romana*, the Romans instead had to face a religion which refused all traditional forms of religious integration. In a polytheistic context, i. e. from traditional Roman perspective, Israel's veneration of a foreign god, namely JHWH, was no principal problem nor would it have been impossible to integrate the JWHH-cult into the Roman religious system. Conversely, JHWH's inclusion in a pantheon was considered as a blasphemy by most adherents of biblical monolatrism, which at the time of Israel's confrontation with the Romans had become a rather developed monotheism. Earlier there were times when at least some Jews might have accepted JHWH's identification with the god of another people in terms of *interpretatio* (which seems to have happened during the rule of the Seleucid dynasty at the eve of the Maccabean riots).

Nevertheless, cohabitation of the polytheistic majority with a monotheistic minority remained possible in the Roman empire - at least as long as the second primarily consisted in native Jews and as long as tolerance seemed to serve the *pax Romana*[28]. Thus the Ro-

man political elite was willing to grant the Jews, which were widely considered a people with strange customs, various privileges (including the exemption from the participation in such religious ceremonies, which were considered civic duties in principal in imperial times). Of course, such compromises due to state interests were temporally limited. The violent outcome of the structural incompatibility of traditional polytheism and biblical monotheism was postponed, not banned for ever. As it seems, one main reason for the violent outbreaks against Christians within Rome's pluralistic though religiously based society was the missionary expansion of Christianity and its increasing invasion of traditional social segments. General instability of the empire was another.

Eventually the Roman society, which, based on traditional religious principles as it was, became more and more incapable of dealing with an increasing number of monotheists and therefore reacted with brutal violence. However, this period of Roman history was comparably short. With Constantine, peaceful cohabitation of various kinds of pagans, Jews and Christians again became the civic aim. Indeed, as indicated above, doctrinal intolerance is a typical feature of monotheistic religions. So as long as modern emancipation of politics from religion was not in sight, the multi-religious experiment of the 4th century had very little chance. When, in late antiquity, Christian doctrinal intolerance combined with political power, it soon resulted in the well known forms of practical intolerance against pagans (and, to a lesser extent, against Jews).

3. (In)tolerance within Judaism, Christianity, and Islam

Since monotheistic religions do not accept but one god, they have always had a considerable problem with the adherents of faiths other than their own, which is considered the only true religion[29]. Europe's history is full of examples of the political enforcement of systematic religious intolerance for non-religious reasons: Historical records include discrimination, suppression, expulsions, and even physical extermination of religious dissidents, beginning with the last pagans of antiquity. Indeed, in particular it was Christians themselves who suffered from the doctrinal intolerance of other Christians.

As is well known, the modern quest for tolerance was not born until an enormous number of Christians were killed in the aftermath of the reform movement of the 16th century, during Europe's longest war. There is also a significant change of perception. While tolerance was considered a kind of necessary evil in the 17th century, nowadays it is seen as a value itself by many. At the same time, it became linked with the concept of a democratic state, which grants fundamental rights (including freedom of religion and belief) and adopts to neutrality in matters of religion and belief.

This was an enormous challenge for traditional theology. It took quite a long time for Protestant and Catholic theologians to learn to accept the new concept of church and state relations. Today, they are comfortable with it in general, while the process of positive

theological reception of the new model has just commenced within Orthodox theology. As it seems, positive experience with the new system is its best advocate to hesitating theologians. In the West they had had their chance to learn that a positive concept of religious neutrality on the part of the state does not simply imply rights for unbelievers and religious minorities. They experienced that it also means an increase of freedom for the dominant churches themselves, which, in the traditional Christian based states had always been subject to political interference. Thus it is no wonder that Muslims living in western countries are also more ready to accept the perception of a state that grants freedom of religion but is not itself religious-based than are most Muslims of Islamic states.

Where not yet found, an adequate response to formal tolerance at least remains one of the most important theological challenges of our time. Another important question is positive religious tolerance in the sense of *„Anerkennung fremder Religionen als echter und berechtigter Möglichkeit der Begegnung mit dem Heiligen, ohne daß dadurch die eigene religiöse Überzeugung preisgegeben werden müsse"*[30]. While the recognition of the modern democratic state's new framework for church and state relations has made considerable progress within the last decades, this question remains an extremely important theological problem, and that not only for Muslims.

However, post-biblical Judaism developed a concept of religious tolerance which to some extent is exceptional among monotheistic religions. Unlike Christianity, which already at a very early stage considered converting pagans as its mission, so-called normative Judaism remained the religion of God's chosen people Israel. According to the Jewish self-image, it is possible for a non-Jew to join Judaism, but it is not necessary. There are only some minimal standards which are considered liable also for the gentiles. They are not obliged to follow the whole *tora* according to Jewish *halacha* (legal decision). There are only six prohibitions (idolatry, blasphemy, unchastity, bloodshed, robbery and the consumption of meat from a living animal) and one positive commend, namely the administration of justice[31].

It is significant that this concept of the so-called "Noahic commandments" was widely observed even in Palestine, when Jews were a minority within the Roman empire and enjoyed little political power. Christianity also developed in a pluralistic way as long as it was politically powerless. Many theological questions were answered in quite a different way during this period. For a considerable time, the relationship with the Jewish mother-religion as well as with the pagan religion(s), in which most Christian converts had grown up, ranked among the much debated theological issues.

This signifies that the issue of monotheistic (in)tolerance is more ambiguous than the quotation at the beginning of this article might suggest. A particular potential of tolerance is revealed by the biblical canon. The Jewish as well as the Christian canon covers a wide range of theologies and so can be valued as an "ecumenical" event. That, however, is not only a proof for a comparably great readiness to tolerance in formative

times. This spirit was also conserved in the collection of religious basic texts, which believers consider to be normative for all further development of their religion. So the early starting points for tolerance could not completely be superseded by contrary developments, but indeed could and can serve as a tool to criticize such developments as deviations from the original spirit of the biblical religion(s).

When we turn to early Islamic history, the seduction of intolerance which somehow is theologically inherent to all monotheistic religions becomes more visible at an already early stage. Unlike Jesus and his early followers, Mohamad's missionary zeal combined with the pursuit of political expansion from the very beginning. Military conflicts became an integral part of the first formative period of Islam. According to traditional Islamic doctrine, adherents of other cults/religions have no right at all within the "house of Islam". Only the adherents of traditional "book-religions", in particular Jews and Christians, have been tolerated under Islamic rule. *Condicio sine qua non* for toleration is the acceptance of the Islamic rule. For Muslims who dissent from mainstream Islam[32] and for apostates, however, there is no tolerance. Islamic Law (*Shar'ia*) threatens apostasy with capital punishment[33]. Today, such intolerance might easily be mistaken for "typical" Islamic, but Christian polemics are out of place facing Christianity's own historic record of intolerance[34].

4. The religious neutrality of the modern constitutional state

It cannot be repeated often enough: Modern neutrality in matters of religion and belief on the part of the constitutional state is the answer, which Western European society developed in the wake of Christian intolerance, which, combined with political power escalated in early modern times[35]. This new concept was born in the particular modern context of (Western) Europe's post-reformation self-destruction. Its relationship with Europe's Jewish-Christian tradition is ambiguous: elements from this heritage did contribute to the new concept of a state, which itself is not based on religion anymore and thus can renounce to be partial in questions of belief. Nonetheless, it was troublesome and took considerable time to enforce such a concept against the Christian tradition. As mentioned above, the Christian churches themselves did not develop a positive attitude towards the new concept before the 20th century[36].

That there was a lack of understanding of this concept of state on the part of societies which had different religious-cultural traditions and did not experience the same historical shocks as did Western Europe (which, to some extent, does not only apply to African and Asian societies, but also to those European societies which have traditionally been dominated by Eastern Christian traditions) can be understood. However, a partial reception of modernity, including technical development, the concept of the nation-state and its bu-

reaucracy, has become universal. Also in this context the adoption of the concept of the neutral constitutional state, which grants religious liberty and protects religious tolerance and peace among its citizens, seems to be the only possible option in accordance with human rights[37].

It is, however, another question as to what extent it would be possible to make internal tolerance compulsory for religions and particular religious communities, provided that they can and must be held to adopt to internal tolerance at all. The state which is addicted to neutrality in religion and belief meets a particularly difficult situation: non-interference in internal affairs of religious communities and especially non-interference in doctrinal questions is one demand. At the same time, there are obligations in terms of protection[38]. There must certainly be a distinction between doctrinal tolerance and formal tolerance. The state will not be able to force a religious community to participate in inter-religious or ecumenical dialogues, nor will it be possible to demand religious communities to renounce all missionary activities or spiritual and social sanctions for dissidents and other dissenting members, such as excommunication, dismissal from a monastery, or discharge. It will, however, be mindful of the observance for a certain standard of formal tolerance at least from the part of religious individuals as well as from the part of religious communities. Behaviour contrary to such minimal requires will be sanctioned. When human life is threatened (as in the case of the Iranian writer Salman Rushdie, for instance), religious freedom has reached an absolute limit, but there are certainly many less dramatic collisions of fundamental rights, where decisions are much more difficult, as discussed above.

Notes

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1 Leszek Kolakowski, *Toleranz und Absolutheitsansprüche* in *Christlicher Glaube in moderner Gesellschaft* 26 (1980), pp. 5-38, ibid. p. 7: *"It is not necessary to provide historical proof, that the history of Christianity – which, in this regard, is similiar to the history of every religious belief rooted in revelation – is also a history of intolerance, performed in the name of absolute truth."* (own translation)

2 Cf., e. g. Mary Beard / John North / Simon Price, *Religions of Rome. Volume 1 A History; Volume 2 A Sourcebook*, Cambridge University Press, Cambridge, 1998.

3 In the latter sense modern Hindu piety is also often restricted to the veneration of one deity as Shiva or Vishnu alone: cf., e.g., Axel Michaels, *Der Hinduismus. Geschichte und Gegenwart*, Beck, München, 1998, pp. 222ff; 277ff.

4 Gustav Mensching, *Toleranz. I. Religionsgeschichtlich* in RGG 36 (1962), pp. 932 f; idem, *Toleranz und Wahrheit in der Religion*, Weimar, Wartburg-Verlag, 1996 (first edition: Heidelberg, 1955).

5 Ulrich Berner, *Toleranz und Intoleranz in den nichtchristlichen Religionen* in Peter Segl (ed.), *Die Anfänge der Inquisition im Mittelalter*, Bayreuther Historisches Kolloquim t. 7, Böhlau, Köln, 1993, pp. 269-284.

6 Cf. Louise Bruit Zaidman / Pauline Schmitt Pantel, *Die Religion der Griechen. Kult und Mythos*, München, Beck, 1994, pp. 16ff.

7 Cf., e. g., Robert Garland, *Introducing New Gods: The Politics of Athenian Religion*, Cornell University Press, Ithaca, 1992, pp. 136ff.

8 Cf. Flavius Josephus, Contra Apionem 2,37.

9 Cf. Livius, History 39.

10 See Beard / North / Price 1998, t. 2, 288ff.

11 Cf. Richard Potz / Brigitte Schinkele, *Die "Scientology-Kirche Österreich" – die Voraussetzungen für den Erwerb der Rechtspersönlichkeit als eingetragene religiöse Bekenntnisgemeinschaft* in *Österreichisches Archiv für Recht und Religion* 46 (1999), pp. 206-251.

12 Cf. Herbert Kalb / Richard Potz / Brigitte Schinkele, *Das Bundesgesetz über die Einrichtung einer Dokumentations- und Informationsstelle für Sektenfragen (EDISG)* in *Österreichisches Archiv für Recht und Religion* 46 (1999), pp. 353-433, see in particular the appendix (pp. 418ff) with the text of the EU-report on so-called "sects" (A4-0408/97).

13 In some countries of the former Soviet Union, in particular in the Muslim dominated Asian republics, however, the restrictive religious policy of the Communist regime has not yet been dropped with regard to the question of weather unregistered religious communities may function legally. There are also some other countries, such as Belo-Russia for example, which had already adopted a European level of human rights standards after the break-down of the Soviet Union, which now exhibit tendencies backwards which are to be regretted.

14 E. g., in Bayern in Germany.

15 An Austrian case, which was taken to the European Court of Human Rights (Hoffmann v. Austria, 15/1992/360/434), became particularly prominent: A former Roman Catholic, mother of two children, had become a member of Jehovah's Witnesses during her marriage. After separation, both parents applied to be granted parental rights over their children. The District Court granted parental rights to the mother and also the Innsbruck Regional Court rejected the appeal of the father. Eventually the Austrian Supreme Court overturned the judgment of the Regional Court, granting parental rights to the father in view of the mother's membership of the Jehova's Witnesses. Finally, the judegement of the European Court of Human Rights (June, 23rd 1993) was again in favour of the mother - however, it is remarkable that the European Court of Human Rights did *"not deny that, depending on the circumstances of the case, the factors relied on by the Supreme Court (rejection of public holidays, opposition to blood transfusions, position as a social minority) may themselves be capable of tipping the scales in favour of one parent rather than the other"* (summary by the registry; see Brigitte Schinkele, *Rechtsprechung* in *Österreichisches Archiv für Kirchenrecht* 42 [1993] pp. 527ff (with further references); 582ff. - In another Austrian case, the mother's guardianship was partly substituted (after legal intervention of the grandmother), as she was not willing to take her boy out of a Sahaja Yoga boarding-school in India in order to grant schooling in Austria (cf. Brigitte Schinkele, *Rechtsprechung* in *Österreichisches Archiv für Kirchenrecht* 45 [1998], ibid., pp. 306-317).

16 E. g., the European instance contradicting a decision of the Austrian Supreme Court, which withdrew guardianship from a mother belonging to Jehovah's Witnesses (see above, note 16).

17 Cf. Acts of Paul and Thecla, chap. 26.

18 Ibid., chap. 27.

19 Ibid., chap. 28.

20 Kalb / Potz / Schinkele 1999, p. 385: The modern state *"is not anylonger a subject of tolerance in the sense of tolerating others, but it has become the guardian of tolerance in the sense of a legal commandment for pluralistic societies."* (own translation)

21 Cf. , e.g., Winfried Platzgummer, *Herabwürdigung religiöser Lehren, Meinungsfreiheit und Freiheit der Kunst* in *Juristische Blätter* 117 (1995), pp. 137-142, ibid. p. 138.

22 Cf. Brigitte Schinkele, *Überlegungen zum Phänomen neuer religiöser Bewegungen unter dem Gesichtspunkt der Glaubenswerbung und staatlicher Schutzpflichten* in Carl G. Fürst / Richard Potz / Spyros Troianos, *Kirchenrecht und Ökumene. Festgabe für Panteleimon Rodopoulos*, Kanon t. 15, Kovar, Eichenau, 1999, pp. 253-290.

23 Judgment of the European Court of Human Rights in the case of Otto-Preminger-Institut v. Austria (11/1993/406/485) from September 20th, 1994.

24 Gerhard Haderer, Das Leben des Jesus, Carl Ueberreuter, Wien, 2002.

25 See above, note 24.

26 Cf. the documentation of Peter Guyot / Richard Klein, *Das frühe Christentum bis zum Ende der Verfolgungen*, Wissenschaftliche Buchgesellschaft, Darmstadt, 1997 (first edition: 1993/1994).

27 C.f. the case-study of Reinhard Selinger, *Die Demetriosunruhen (Apg. 19,23-40). Eine Fallstudie aus rechtshistorischer Perspektive* in *Zeitschrift für die neutestamentliche Wissenschaft* 88 (1997), pp. 242-259.

28 Cf., e.g., Alfredo M. Rabello, *The Jews in the Roman Empire: Legal Problems, from Herod to Justinian*, Ashgate, Aldershot, 2000, and in particular Karl L. Noetlichs, *Das Judentum und der römische Staat. Minderheitenpolitik im antiken Rom*, Wissenschaftliche Buchgesellschaft, Darmstadt, 1996.

29 Cf., e. g., Reinhard Feldmeier, Ulrich Heckel (ed.), *Die Heiden. Juden, Christen und das Problem des Fremden*, WUNT t. 70, Mohr, Tübingen, 1994; Konrad Hilpert / Jürgen Werbick (ed.), *Mit den anderen leben. Wege zur Toleranz*, Düsseldorf, 1995; Ingo Broer / Richard Schlüter (ed.), *Christentum und Toleranz*, Wissenschaftliche Buchgesellschaft, Darmstadt, 1996; Werner Brändle / Gottfried Leder / Dieter Lüttge (ed.), *Toleranz und Religion. Perspektiven zum interreligiösen Gespräch*, Hildesheimer Beiträge zu Erziehungs- und Sozialwissenschaften t. 36, Olms, Hildesheim, 1996; Graham N. Stanton / Guy G. Stroumsa (ed.), *Tolerance and Intolerance in Early Judaism and Christianity*, Cambridge University Press, Cambridge, 1998.

30 Heinz-Josef Fabry, *Toleranz im Alten Testament? Ergebnisse einer Suchbewegung* in Broer / Schlüter 1996, p. 12: *"appreciation of foreign religions as real and legitimate possibilities of an encounter with the sacred, without the necessity of abandoning one's own religious conviction"* (own translation).

31 Cf., e.g., Klaus Müller, *Tora für die Völker. Die noahidischen Gebote und Ansätze zu ihrer Rezeption im Christentum*, SKI t. 15, Institut Kirche und Judentum, Berlin, 1994.

32 In history they were not only adherents of other legal opinions but quite often also mystics.

33 Cf., e. g., Adel Th. Khoury*, Abfall vom Glauben im Koran und im Rechtssystem* in idem et al., *Handbuch Recht und Kultur des Islams in der deutschen Gesellschaft*, Gütersloher Verlagshaus, Gütersloh, 2000, pp. 236-241.

34 As far as Judaism is concerned, the belief in religious tolerance and peaceful cohabitation with gentiles also made only slow progress, as long as religion was mixed up with politics to a significant extent within biblical Judaism.

35 Cf., e. g., Johannes Schwartländer, *Freiheit der Religion. Christentum und Islam unter dem Anspruch der Menschenrechte*, Forum Weltkirche: Entwicklung und Frieden t. 2, Matthias-Grünewald, Mainz, 1993; Richard Potz, *Der weltanschaulich neutrale Staat und die Religionen. Verhältnis, Rahmenbedingungen und Gefahren* in *Dialog als Hoffnung der Zeit. Ursprünge, Kriterien und gesellschaftliche Relevanz theologischer Prozesse (Dokumentation der Fachtagung im Rahmen des „Dialogs für Österreich")*, ed. by Kontaktstelle für Weltreligionen/ Sekretariat d. Österr. Bischofskonferenz, Zeitpunkt, Wien, 1998, pp. 97-107.

36 Cf., e.g., Ernst J. Nagel, *Minderheiten in der Demokratie. Politische Herausforderung und interreligiöser Dialog*, Theologie und Frieden t. 16, Kohlhammer, Stuttgart, 1988, pp. 176ff.

37 Cf. Richard Potz, *Globalisierung und staatliche Souveränität. Auf der Suche nach einer grenzenlosen Gerechtigkeit* in *Gerechtigkeit in den internationalen und interreligiösen Beziehungen in islamischer und christlicher Perspektive*, ed. by Petrus Bsteh and Seyed A. Miramadi, St. Gabriel, Mödling, 1997, pp. 197-209.

38 Cf. Schinkele 1999, pp. 253ff; Kalb / Potz / Schinkele 1999, pp, 379ff.