



religions

Freedom of Religious Institutions in Society

Edited by

Timothy S. Shah and Nathan A. Berkeley

Printed Edition of the Special Issue Published in *Religions*

Freedom of Religious Institutions in Society

Freedom of Religious Institutions in Society

Editors

Timothy S. Shah

Nathan A. Berkeley

MDPI • Basel • Beijing • Wuhan • Barcelona • Belgrade • Manchester • Tokyo • Cluj • Tianjin



Editors

Timothy S. Shah

University of Dallas

(striking Religious Freedom Institute)

USA

Nathan A. Berkeley

Religious Freedom Institute

USA

Editorial Office

MDPI

St. Alban-Anlage 66

4052 Basel, Switzerland

This is a reprint of articles from the Special Issue published online in the open access journal *Religions* (ISSN 2077-1444) (available at: https://www.mdpi.com/journal/religions/special_issues/free_reli).

For citation purposes, cite each article independently as indicated on the article page online and as indicated below:

LastName, A.A.; LastName, B.B.; LastName, C.C. Article Title. <i>Journal Name</i> Year , <i>Volume Number</i> , Page Range.
--

ISBN 978-3-0365-2434-4 (Hbk)

ISBN 978-3-0365-2435-1 (PDF)

Cover image courtesy of Tatiana Rodriguez.

© 2022 by the authors. Articles in this book are Open Access and distributed under the Creative Commons Attribution (CC BY) license, which allows users to download, copy and build upon published articles, as long as the author and publisher are properly credited, which ensures maximum dissemination and a wider impact of our publications.

The book as a whole is distributed by MDPI under the terms and conditions of the Creative Commons license CC BY-NC-ND.

Contents

About the Editors	vii
Preface to “Freedom of Religious Institutions in Society”	ix
Timothy Samuel Shah Institutional Religious Freedom in Full: What the Liberty of Religious Organizations Really Is and Why It Is an “Essential Service” to the Common Good Reprinted from: <i>Religions</i> 2021 , <i>12</i> , 414, doi:10.3390/rel12060414	1
Paul Marshall Institutional Religious Freedom: An Overview and Defense Reprinted from: <i>Religions</i> 2021 , <i>12</i> , 364, doi:10.3390/rel12050364	25
Chad M. Bauman Litigating the Limits of Religion: Minority and Majority Concerns about Institutional Religious Liberty in India Reprinted from: <i>Religions</i> 2021 , <i>12</i> , 400, doi:10.3390/rel12060400	53
Timothy S. Shah India’s Other Religious Freedom Problems Reprinted from: <i>Religions</i> 2021 , <i>12</i> , 490, doi:10.3390/rel12070490	75
Robert W. Hefner Islam and Institutional Religious Freedom in Indonesia Reprinted from: <i>Religions</i> 2021 , <i>12</i> , 415, doi:10.3390/rel12060415	105
Mariz Tadros and Akram Habib Who Speaks for Coptic Rights in Egypt Today? (2013–2021) Reprinted from: <i>Religions</i> 2022 , <i>13</i> , 183, doi:10.3390/rel13020183	125
Jonathan Fox and Roger Finke Ensuring Individual Rights through Institutional Freedoms: The Role of Religious Institutions in Securing Religious Rights Reprinted from: <i>Religions</i> 2021 , <i>12</i> , 273, doi:10.3390/rel12040273	145
Jonathan Fox, Roger Finke and Dane R. Mataic The Causes of Societal Discrimination against Religious Minorities in Christian-Majority Countries Reprinted from: <i>Religions</i> 2021 , <i>12</i> , 611, doi:10.3390/rel12080611	167
Rebecca Supriya Shah The Freedom of Religious Institutions and Human Flourishing in India: A Present and Future Research Agenda Reprinted from: <i>Religions</i> 2021 , <i>12</i> , 550, doi:10.3390/rel12070550	191
Byron R. Johnson How Religion Contributes to the Common Good, Positive Criminology, and Justice Reform Reprinted from: <i>Religions</i> 2021 , <i>12</i> , 402, doi:10.3390/rel12060402	213
Lihui Zhang Are International Human Rights Organizations Effective in Protecting Religious Freedom? Reprinted from: <i>Religions</i> 2021 , <i>12</i> , 479, doi:10.3390/rel12070479	225

About the Editors

Timothy S. Shah serves as a Distinguished Research Scholar at the University of Dallas and Project Architect for the Religious Freedom Institute's (RFI) Freedom of Religious Institutions in Society (FORIS) project. Prior to this, among other initiatives he helped spearhead, Shah led RFI's South and Southeast Asia Action Team and directed Georgetown University's Berkley Center's Religious Freedom project, a precursor to RFI. Some of the books he has authored, edited, or contributed to as a co-author include *God's Century: Resurgent Religion and Global Politics* (2011), *Religious Freedom: Why Now? Defending an Embattled Human Right* (2012); *Religious Freedom and Gay Rights: Emerging Conflicts in the United States and Europe* (2016), *Under Caesar's Sword: How Christian's Respond to Persecution* (2018), and *Homo Religious? Exploring the Roots of Religion and Religious Freedom in Human Experience* (2018). Shah's work as a political scientist evinces a focus on the history, theory, and contemporary state of the interrelationship between religion and politics. Shah earned his A.B. and Ph.D. from Harvard University.

Nathan A. Berkeley serves as Communications Director and Research Coordinator of the Religious Freedom Institute. He leads RFI's efforts to convey its work to a wide range of external audiences and supports RFI's scholars in major research initiatives. Berkeley has served in government in numerous communications, legislative affairs, program management, and law enforcement capacities and has held positions in two congressional offices. He has also conducted research and writing that explores the intersection of religious freedom, equality, and nondiscrimination law. Berkeley holds B.A. degrees in Political Science and History from Olivet Nazarene University and an M.A. in Politics from The Catholic University of America.

Preface to “Freedom of Religious Institutions in Society”

The eleven chapters in this Religions edited volume provide a theoretical, historical, and contemporary exploration of the meaning, value, and state of institutional religious freedom in societies throughout the world. This body of work reflects research and analysis conducted under the auspices of the Freedom of Religious Institution in Society (FORIS) project, an initiative that is funded by the John Templeton Foundation and led by the Religious Freedom Institute (RFI). The FORIS project is based on the proposition that religious liberty is not an individual right alone, but rather includes the right of religious communities to found and gather in synagogues, churches, mosques, temples, and other houses of worship. Freedom of religion, moreover, includes the right of faith communities to establish religious institutions such as schools, hospitals, ministries to the poor, universities, and countless others that seek to embody the teachings of their respective religious traditions. Institutional religious freedom encompasses this full range of congregational and organizational expressions of religious faith.

In the first chapter, Timothy Shah, architect of the FORIS project and a Distinguished Research Scholar at the University of Dallas, answers the question at the heart of this volume: “What is institutional religious freedom?” Shah defines it as, “*the presumptive right of a religious institution to be free from coercive interference on the part of individuals, social groups, governments, or of any human power in three main areas or dimensions: self-definition, self-governance, and self-directed outward expression and action.*” Shah also suggests a multitude of reasons why institutional religious freedom in a robust form deserves robust protection. In the second chapter, and in a similar vein to Shah’s, Paul Marshall, Director of RFI’s South and Southeast Asia Action Team and Wilson Professor of Religious Freedom at Baylor University, argues convincingly for an understanding of rights as attached not merely to individual persons of faith but also to religious institutions.

Chapters three through six help us answer the following question: How is institutional religious freedom faring in the world? In the third chapter, Chad Bauman, a Senior Fellow with RFI’s South and Southeast Asia Action Team and Professor of Religion at Butler University, describes the various minority and majority concerns about institutional religious freedom in India and demonstrates that many of them relate to the Indian government’s distinctive approach to managing religion and religious institutions. In the fourth chapter, Shah makes his second contribution to this volume by surveying influential studies of the conditions of religious freedom in India, identifying both their tendency to generate flat, one-dimensional mappings of those conditions and their consequent failure to account for restrictions on the religious freedom of India’s majority Hindu population, including constraints on the freedom of their institutions. In the fifth chapter, Robert Hefner, also a Senior Fellow with RFI’s South and Southeast Asia Action Team and Professor of Anthropology and International Relations at Boston University, argues that the concept of institutional religious freedom provides an important corrective to conventional, individualistic approaches to religious liberty. Within the context of Indonesia, Hefner notes the Indonesian government’s refusal to grant official status to a multiplicity of religious minorities and their institutions, which are subsequently left stigmatized and vulnerable to prejudicial treatment. In the sixth chapter, Mariz Tadros, Professor of Politics and Development at the University of Sussex, and human rights advocate Akram Habib, explore the Egyptian context in which the space for civic action to demand rights for equality and religious freedom are circumscribed. They also examine the implications of institutionalizing

religious freedom in light of the tension between arrangements that may benefit Coptic laity and others that may benefit church leadership, while also keeping the promotion of the greater public good in Egypt in view.

The seventh and eighth chapters point us to where institutional religious freedom is flourishing in the world and where it is declining. In the seventh chapter, FORIS scholars Roger Finke, Distinguished Professor of Sociology, Religious Studies, and International Affairs at Pennsylvania State University, and Jonathan Fox, Professor of Religion and Politics at Bar-Ilan University, provide an analysis of restrictions across the world on institutional and individual religious freedom for majority and minority religious communities. In the eighth chapter, Fox and Finke join Dane Mataic, Assistant Professor of Sociology at North Dakota State University. Using rigorously compiled datasets, Fox, Finke, and Mataic examine the impact of religiosity in Christian-majority countries on discrimination by non-state actors against religious minorities.

Lastly, chapters nine through eleven help us answer the most crucial question: Why is institutional religious freedom worthy of public concern? In the ninth article, Rebecca Shah, Senior Research Fellow at Archbridge Institute, examines conditions surrounding institutional religious freedom in India, observing that fewer restrictions on faith organizations' freedom to define their mission and governance practices would contribute to greater flourishing and innovation and would enhance their ability to contribute to the common good. Byron Johnson, RFI Senior Fellow and Professor of the Social Sciences at Baylor University, maintains, in the tenth chapter, that religious freedom has consistently been linked to volunteerism and enables religious individuals and organizations to address a variety of social problems, including crime and delinquency, substance abuse, offender behavior in confinement settings, and recidivism. In the eleventh and final chapter, Lihui Zhang, of the University of Oklahoma, observes that international human rights organizations can more effectively secure a greater enjoyment of individual human rights by defending the integrity and rights of religious institutions, which provide avenues for the exercise of many individual rights.

Timothy S. Shah, Nathan A. Berkeley
Editors

Article

Institutional Religious Freedom in Full: What the Liberty of Religious Organizations Really Is and Why It Is an “Essential Service” to the Common Good

Timothy Samuel Shah

Politics Department, University of Dallas, Irving, TX 75062, USA; tshah@udallas.edu

Abstract: Should the freedom of churches and other religious institutions come down to little more than a grudging recognition that “what happens in the church, stays in the church”? In this article, I provide a more robust definition of what I call institutional religious freedom than a crabbed and merely negative understanding. In addition, I also go beyond a libertarian-style defense of institutional religious freedom as the ecclesiastical equivalent of the “right to be left alone” by suggesting a multitude of reasons why institutional religious freedom in a robust form deserves robust protection. Especially amidst exigent challenges such as the global COVID-19 pandemic, an anemic appeal to an ecclesiastical version of negative liberty on merely jurisdictional grounds will not be enough to defend religious organizations from an increasingly strong temptation and tendency on the part of political authorities—often acting on the basis of understandable intentions—to subject such organizations to sweeping interference even in the most internal matters. In contrast, the article offers an articulation of why both the internal and external freedoms of religious institutions require maximum deference if they are to offer their indispensable contributions—indeed, their “essential services”—to the shared public good in the United States and other countries throughout the world. Underscoring the external and public dimensions of institutional religious freedom, the article follows the work of law and religion scholar W. Cole Durham in that it analytically disaggregates the freedom of religious institutions into three indispensable components: “substantive”, or the right of self-definition; “vertical”, or the right of self-governance; and “horizontal”, or the right of self-directed outward expression and action.

Citation: Shah, Timothy Samuel. 2021. Institutional Religious Freedom in Full: What the Liberty of Religious Organizations Really Is and Why It Is an “Essential Service” to the Common Good. *Religions* 12: 414. <https://doi.org/10.3390/rel12060414>

Academic Editor: Nathan A. Berkeley

Received: 26 April 2021

Accepted: 2 June 2021

Published: 7 June 2021

Publisher’s Note: MDPI stays neutral with regard to jurisdictional claims in published maps and institutional affiliations.



Copyright: © 2021 by the author. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

Keywords: religious freedom; religious liberty; religious institutions; religious organizations; institutional religious freedom; religious autonomy; church autonomy; freedom of the church; W. Cole Durham, Jr.

1. Introduction

In its 2012 judgment in *Hosanna-Tabor*, the US Supreme Court held that the First Amendment “gives special solicitude to the rights of religious organizations”. However, precisely what kind and level of “solicitude”? Precisely which “rights”? Additionally, precisely what is the ground of this solicitude and of those rights? Invoking the so-called “ministerial exception”, the Court in *Hosanna-Tabor* largely restricts itself to the idea that the church should be free from government interference in matters of “internal governance”, “internal government”, and “internal church decision”.¹ What the consenting adults who make up the church do among themselves is their own business, the Court implies, and is of no public concern or business of the government. One is tempted to wonder, therefore, if the Court’s “special solicitude” for the rights and freedoms of religious institutions is in the spirit of those old Las Vegas tourism advertisements: “What happens in Vegas, stays in Vegas”.²

Is the freedom of religious organizations valorized in the Religion Clauses and defended in recent Supreme Court jurisprudence little more than the ecclesiastical equivalent of the famed “right to be left alone”? In other words: “What happens in the church, stays

in the church". If so, is this all we *should* mean by the rights and freedoms of religious institutions, i.e., a veil thrown over the inner workings of religion, less from respect for the sacred and more from a sense that the affairs of the church are its own private (and perhaps somewhat unsavory) business? Are churches such as restive, semi-autonomous regions in some countries, which are given special jurisdictional respect and internal autonomy within their borders less from positive respect for their dignity and value and more from fear that external interference with their "internal governance" would create more problems than it would solve?

In the following, I provide a more robust definition of what I call institutional religious freedom than the crabbed and merely negative understanding that is implicit in the Court's majority opinion in *Hosanna-Tabor*. In fact, Associate Justice Samuel Alito's lengthy concurring opinion in *Hosanna-Tabor* points the way to the more robust and more positive articulation of the meaning and value of institutional religious freedom I offer here, and I confess I wonder whether he wrote his concurrence precisely to go beyond the majority opinion's more meager conception. According to Alito, respect for a church's governance, including in matters of ministerial appointments, is important not merely for the sake of protecting its internal autonomy. "A religious body's control over" its "employees", Alito observes, "is an essential component of its freedom to speak in its own voice, both to its own members and to the outside world". In other words, unfettered church governance subserves not only the internal self-government of religious organizations but also the "free dissemination of religious doctrine". We protect what happens in the church not because it stays in the church but precisely because it is meant to go forth from the church. Similar to Alito's, my definition stresses the essential internal *and* external dimensions of institutional religious freedom, as well as its negative *and* positive dimensions.³

In addition, I also go beyond a libertarian-style defense of institutional religious freedom, such as the ecclesiastical right to be left alone, by suggesting a multitude of reasons why institutional religious freedom in a robust form deserves robust protection. When the going gets tough, as it is getting tough right now amidst the global COVID-19 pandemic, an anemic appeal to an ecclesiastical right to be left alone on merely jurisdictional grounds may not be adequate for defending the proper freedom of religious organizations from sweeping interference even in the most internal matters. What is needed instead is an articulation of why both the internal and external freedom of religious institutions requires maximum deference if they are to make their indispensable contributions—and, indeed, "essential services"—to the shared public good in the United States and countries throughout the world.

2. Defining Our Terms: "Religion", "Religious Institution", and "Institutional Religious Freedom"

The concept of the "freedom of the church" was first formulated by Pope Gelasius in the fifth century and then later developed by Pope Gregory VII in the eleventh century as the Roman Catholic Church sought to resist political domination.⁴ However, despite a widespread prejudice that the idea of corporate religious independence (or, as it is often tagged, "separation of church and state") is a uniquely Western idea and achievement, the notion that religious institutions do—and should—retain a distinct place in society, as well as some independence and freedom from control by other agents, particularly political authorities, has strong antecedents and analogs in Hinduism, Buddhism, and Islam.⁵ In Judaism and Christianity, for example, it has ancient roots in biblical notions of institutional separation between the roles of prophet and king and the distinction Jesus draws between "the things of God" and "the things of Caesar". (Wilken 2019). In Hinduism, Buddhism, and Islam, it has deep roots in the institutional differentiation between the roles and duties of religious leaders, on the one hand, and the roles and duties of political authorities, on the other. In fact, in a historical survey spanning numerous cultures, religions, and civilizations, comparative sociologist S. N. Eisenstadt concluded that "in very few [ancient and medieval] empires did there exist even a partial fusion of some of the central political and religious roles" (Eisenstadt 1962).

In some ways building on these historical ideas and antecedents, law professor Douglas Laycock introduced “church autonomy” into contemporary scholarly circulation in 1981 (Laycock 1981). Among other things, Laycock identified a “right of church autonomy” as a distinct though all too frequently neglected interest. “Quite apart from whether a regulation requires a church or an individual believer to violate religious doctrine or felt a moral duty, churches have a constitutionally protected interest in managing their own institutions free of government interference”.⁶ Two years later, another legal scholar, Harold Berman, argued in an influential monograph, *Law and Revolution*, that Pope Gregory VII’s so-called “Papal Revolution” initiated a dramatic struggle for the Church’s institutional freedom that ultimately proved decisive in shaping Western law and politics (Berman 1983).

Subsequent decades have seen an explosion of work in American and European legal scholarship on institutional religious freedom, examining questions such as whether religious organizations (including for-profit corporations) may be exempted from generally applicable laws on the basis of claims of religious autonomy.⁷

For all this recent work, a palpable imbalance remains. Westerners in general and Americans in particular readily deploy a rich vocabulary and discourse of individual rights, including the individual right to freedom of religion and conscience. However, as Mary Ann Glendon, Michael Sandel, Patrick Deneen, William Galston, Robert Bellah, and numerous other commentators on both the right and the left have noted, we do not seem to have a comparably robust appreciation of the meaning and importance of institutional rights and the duties we owe—as individuals and as a society—to communities and organizations, including religious communities and organizations (Glendon 1993; Sandel 1982; Deneen 2018; Galston 2002; Bellah et al. 2008).

What rights and freedoms, then, do organized religious communities and institutions possess? What basic institutional rights and freedoms should any decent society, liberal or otherwise, recognize and respect? What institutional rights and freedoms are non-negotiable, such that, in their absence, a religious institution cannot be meaningfully free and self-organizing, and a political society cannot be said to promote the common good?

Before attempting to define and disaggregate the concept of institutional religious freedom, it is first essential, of course, to be as clear as possible about the meaning of “religion” as well as the meaning of “religious institution”.

I take “religion” to be an interconnected set of beliefs and practices through which people answer the grand questions of life by seeking to live in a relationship with the ultimate power (or powers) that grounds reality and is present to them in the real circumstances of their lives. They do this most characteristically through worship and similar practices seeking a connection with the divine. Religion typically involves related rituals, a community, and a moral code grounded in the sacred realm.⁸ Contrary to the pithy formulation of Anglican Archbishop William Temple that “[y]our religion is what you do with your solitude”, I follow sociologist Christian Smith in emphasizing that religion is fundamentally a matter of religious practices (Smith 2017). Moreover, I take it as too obvious to belabor that religious practices—particularly religious practices related to major life events, including birth, initiation, marriage, and death—are generally performed by or in the context of religious institutions and religious communities. Despite what generations of Western social scientists (disproportionately influenced by Protestantism and various forms of Western individualism and liberalism) have tended to believe, people tend to “do” religion as something exterior and concrete at least as much as they “believe” in it as something interior and spiritual.

However, it is crucial to see that religion, in my understanding, is not some value-free fact or tendency (perhaps optional) that characterizes (perhaps only some) human beings. From the point of view of any one of us thinking clearly about what makes for human flourishing—what would make my own life flourish—it is readily apparent that a life utterly devoid of any reflective interest in the deepest and widest horizons of being as such, and in our place in the universe, is a life that is in some significant way damaged and deficient. The dictum of Socrates that “the unexamined life is not worth living” is

perhaps the supreme expression of this truth: to fail to inquire about ultimate reality, and to fail to align one's life with the truth about that reality as well as one can discern it, is not just to suffer a quantitative ignorance of all the facts about the universe one might wish to know—such as being without one or two volumes of an encyclopedia. It is to miss a qualitatively distinctive opportunity and a basic human good: the chance to live a life that runs with (rather than in ignorance of, or, worse, against) the grain of the universe and reality itself (Tollefsen 2018). This seeking to discern the grain of ultimate reality or the fabric of existence—and to adhere or “bind” oneself to it as best one can—is the natural and near-universal phenomenon we generally term “religion”.⁹ Understood this way, religion is natural and near-universal because human persons have the kinds of capacities and live the kinds of lives that almost inevitably lead them to ask questions about ultimate meaning and ultimate reality.¹⁰

This leads to the next crucial definitional component of our analysis: “religious institution”. According to the *Merriam-Webster Dictionary*, the first meaning of “institution” is “an established organization or corporation (such as a bank or university)” and, further, one that is “especially of a public character”.¹¹ A religious institution, therefore, is an organization or corporation that is established at least in part to advance, reflect, realize, or defend “religion” or a “religious” purpose in the sense defined above. As Paul Marshall notes in his contribution to this Special Issue, nothing whatsoever prevents an institution—say, a humanitarian or development organization—from being simultaneously “religious” and something else (a “humanitarian” or “welfare” agency, in this case) in its constitutive purposes (Marshall 2021). After all, in an empirical study entitled *Global Institutions of Religion*, religion and development expert Katherine Marshall provides an analytical mapping of the enormous variety of religious institutions that operate around the world: formal ecclesial or religious communities; religiously inspired movements; global interreligious or ecumenical bodies; community and congregation-level groups; faith-inspired organizations; and religiously linked academic institutions (Marshall 2013).

All of these various kinds of religious institutions fall within the scope of our concern and analysis. Despite their vast variety and range, what they all have in common are two simple qualities. First, they consciously and deliberately aim at some religious purpose, objective, or end (even, again, if they might also possess some non-religious purpose, objective, or end). Second, they possess some degree of organizational or institutional coherence and agency. Thus, what distinguishes a religious institution such as the Young Men's Buddhist Association of America (YMBA) from a religious group or class such as “Buddhists” is that the former enjoys agency—it can act—while Buddhists as a group do not enjoy organizational coherence and agency even if they may constitute a religious community in some sense on account of their shared religious history, beliefs, and purposes.¹² Groups such as the YMBA illustrate an important, related point. Though some people have suggested or thought that the very creation of coherent religious organizations and institutions enjoying independent agency is somehow a Western, Christian, or Protestant phenomenon, there is abundant evidence to the contrary. The largest organization in Indonesia, for example, is the 90-million member Nahdlatul Ulama, an Islamic civil society institution that is entirely independent of government control and, in fact, predates the declaration of the modern Republic of Indonesia by nearly twenty years.¹³

However, it is important to clarify that religious institutions may enjoy meaningful coherence and significant agency and yet be nested within larger religious institutions that enjoy their own higher and wider degree of coherence and agency. St. Elizabeth Catholic Parish in Rockville, Maryland, USA, is led by a priest and parish council and is capable of exercising coherence and agency on many matters. St. Elizabeth, however, is not autonomous or self-organizing but is nested within another coherent religious institution that enjoys its own agency (and indeed higher authority), the Roman Catholic Archdiocese of Washington, which is, in turn, nested within the worldwide Roman Catholic Church, whose hierarchical leadership, of course, culminates in the Bishop of Rome, the Pope. What distinguishes a “religious institution” is not that it is necessarily self-contained in the sense

that it enjoys supreme autonomy or ultimate authority (even from its own theological or religious standpoint) but that it enjoys some meaningful degree of institutional coherence and agency. Precisely in order to respect the integrity and variety of different “religious institutions”, it is necessary to acknowledge that they differ from each other in how they understand their authority, agency, and institutional coherence. Some, such as St. Elizabeth, understand themselves to be organically nested within wider and larger religious institutions, whereas other religious institutions (such as some independent, congregational religious communities) understand themselves to be entirely autonomous and under no higher institutional authority.

Following scholar of law and religion W. Cole Durham, Jr., I and a collaborative research team I lead at the Religious Freedom Institute take “institutional religious freedom” to be a right of self-determination for religious institutions and organizations as just defined. Building on the insights of other scholars, we suggest that at its core, this right to self-determination entails the right of religious communities to decide upon and administer their own affairs without government interference.¹⁴ In this sense, we take institutional religious freedom to be *the effective power of religious communities and organizations to be independent of control or interference by the state and other social actors and therefore to enjoy meaningful self-determination in the conduct of their “internal” affairs or self-governance as well as their “external” affairs or engagement with the wider society.* To elaborate, *institutional religious freedom is the presumptive right of a religious institution to be free from coercive interference on the part of individuals, social groups, governments, or of any human power in three main areas or dimensions: self-definition, self-governance, and self-directed outward expression and action.*

If the essence or core of institutional religious freedom is reasonably clear, what are its main components or constituent elements? Durham argues that institutional religious freedom has three main dimensions: substantive, vertical, and horizontal. *Substantive* dimensions of institutional religious freedom pertain to the core content of a religious community’s religious life, such as the definition of the community’s beliefs and doctrines and the content and organization of its worship and rituals. *Vertical* dimensions pertain to a community’s leadership structure, hierarchy, lines of authority, the training and appointment of ministers and leaders, the conferral of membership, and the disciplining of members. This dimension includes the right of religious institutions to have and practice their own distinctive pattern of religious organization, i.e., whether nested and hierarchical or autonomous and congregational, as discussed above. *Horizontal* dimensions pertain to a community’s ability to engage the wider society in systematic ways through the creation of specialized institutions and the organized manifestation and propagation of its religious message and teachings.

That is, a religious institution enjoys the presumptive right to define its identity and its core convictions (the self-definition or “substantive” dimension of institutional religious freedom), govern itself by its core convictions (the self-governance or “vertical” dimension of institutional religious freedom), and act and express itself based on its core convictions in society and public life to the extent and in the manner it wishes to do so (the self-directed action and expression or “horizontal” dimension of institutional religious freedom). The horizontal dimension of institutional religious freedom is subject to two basic limits: it does not authorize violence or the infringement of the fundamental rights of others.

Note that this freedom is presumptive in the sense that there is a strong presumption in its favor and a corresponding duty on the part of other actors, including the state, to defer to the three-fold freedom of religious institutions (substantive, vertical, and horizontal) to the maximum extent possible. In certain respects, however, such as concerning the freedom of a religious body to define and interpret its own identity and doctrine, this freedom is absolute or near-absolute—the collective equivalent of the individual’s absolute *forum internum* right (and duty) to follow the dictates of conscience with respect to one’s own beliefs about religion and morality.

At the same time, precisely to foster the conditions favoring the proper autonomy and self-organization of religious institutions, in the long run, it may well be justifiable

and necessary to limit the freedom of particular religious bodies in the short or medium term (and perhaps even in the long term). To foster the appropriate freedom and ability of young pupils to play and flourish at recess, it may be justifiable and necessary for the responsible teacher to discipline the schoolyard bully and perhaps even stop the bully from participating in recess at all, at least for a time. Likewise, when faced with religious institutions that coerce, bully, and intimidate other religious institutions in ways that prevent them from exercising their proper freedom, governments are well within their rights—and, indeed, they would be obligated by the norms of religious freedom—if they were to take steps to stop such bullying or coercive practices by certain religious institutions. However, governments must also ensure that the steps they take are proportionate. Just as a teacher would not be acting proportionately if, say, he or she was to cancel recess for all pupils, indefinitely, because of the actions of one bully, so governments would not be acting proportionately if they were to impose blanket restrictions on the freedom of all religious institutions (such as through excessively onerous registration requirements, or blanket restrictions on access to funding) because of the actions of some religious institutions.

Why, though, *should* there be a presumption in favor of institutional religious freedom? Why should we give the freedom of religious institutions the benefit of the doubt? The rest of the article is designed to clarify the dimensions and constituent elements of institutional religious freedom but also to articulate a range of reasons why governments and societies should afford these dimensions and elements maximum deference.

3. The Substantive Dimensions of Institutional Religious Freedom

The substantive dimensions of institutional religious freedom pertain to the core content of a religious community's religious life. *A religious community enjoys the substantive dimension of institutional religious freedom when it is independent of outside interference and meaningfully self-determining in (a) defining its core beliefs and doctrines, (b) defining and exercising its core ministry functions, and (c) organizing its core leadership and administrative structures and exercising their core functions.* This is the most central dimension of institutional religious freedom because it pertains to the freedom of a religious community or organization to define and constitute itself in the most fundamental ways, i.e., in terms of what it believes and teaches, what constitutes its authentic worship and religious rites, and how its leadership and administration should be organized.

The substantive or core dimension of institutional religious freedom has been—and remains—a frequent axis of conflict between political and religious authorities throughout history. For example, at regular intervals between the 4th and 8th centuries, Christian emperors with Arian leanings sought to impose Christological formulas on the church that many Christian authorities and councils considered incompatible with core Christian doctrine, triggering fierce defenses of the substantive dimension of the church's institutional religious freedom (such as by St. Maximus the Confessor in the 7th century).¹⁵

However, among the most notable and radical attempts in history to limit the substantive dimensions of institutional religious freedom occurred in France in the late 18th century and in Turkey in the early 20th century. After the French Revolution, when the republican government instituted the Civil Constitution of the Clergy (1790) and thus initiated the complete re-organization and, effectively, the destruction and re-creation of the French Catholic Church in terms of its core doctrines, core ministry, and core leadership and administration. In the eyes of its architects, of course, the aim of this policy was not to abolish the Church or destroy religion *per se* but to guarantee “the Church's fidelity [to the state] and prevent it from constituting itself as an independent power” (Gueniffey 2015).

Inspired in no small degree by the example of the French Revolution, the National Assembly of the young Turkish Republic followed the initiative of Kemal Atatürk and in March 1924 abolished the Caliphate, the pinnacle of the leadership of the Sunni Islamic community that had endured for centuries. This was a direct political intervention in the core governance structure of one of the world's largest religious communities, and it triggered criticism and repercussions that continue to be felt today.¹⁶

4. The Vertical Dimensions of Institutional Religious Freedom

Second, the vertical dimensions of institutional religious freedom pertain to the freedom of a religious community from outside interference in the exercise of its self-defined authority over the members of its hierarchy as well as its lay membership. In other words, *the vertical dimension of institutional religious freedom pertains to the freedom of religious communities to make particular leadership decisions as well as decisions about ministry positions within an accepted governance structure or system.* In the words of the Concluding Document of the Vienna Meeting of Representatives of the Participating States of the Conference on Security and Cooperation in Europe of 1989, the vertical dimension of institutional religious freedom is “the right of religious communities” to “organize themselves according to their own hierarchical and institutional structure”.¹⁷

As we indicated above, one aspect of the substantive dimension of institutional religious freedom also pertains to leadership and structure. However, this substantive dimension concerns the religious community’s core governance structure—what the Anglican theologian Richard Hooker termed “ecclesiastical polity”. This substantive dimension is implicated whenever the most fundamental features of a religious community’s governance structure are challenged or altered, whether for good or bad reasons, by an outside actor. This was clearly the case with the Constitution of the Clergy in post-revolutionary France, which originally demanded the popular election of priests and bishops, removed papal involvement in the selection of bishops, and ultimately decreed that all clergy must take a public oath of loyalty to the Constitution as a condition of their appointment.

In other words, a religious community’s right of self-determination in matters of leadership and governance has what we may call wholesale dimensions and retail dimensions. If a government were to impose a politically appointed bishop on a Baptist denomination, or if it were to remove the Pope from playing any role in the appointment of bishops in its territory, the action of the government, in either case, would represent an attack on a wholesale or core dimension of the religious community’s right to self-determination in matters of leadership and governance. In each hypothetical case, an outside actor attempts to alter the basic form and structure of a religious community’s self-governance. If the attempt is successful, the religious community *ipso facto* undergoes a radical transformation. In these cases, therefore, it is clearly the substantive dimension of institutional religious freedom that is at issue.

However, consider a different kind of case. In medieval Western Christendom, both ecclesiastical and temporal authorities agreed that the appointment and investiture of bishops could not validly occur without the Pope. There was a virtually universal understanding and acceptance of the Catholic Church’s core governance structure and hierarchical line of authority, deriving from its core doctrine of Petrine supremacy and apostolic succession. Without attacking this basic structure in a “wholesale” way, however, kings, emperors, and other political rulers nonetheless frequently sought to exercise “retail” influence over the appointment of particular bishops, especially in important sees. In some instances, the Church accepted or at least tolerated attempts by political authorities to influence certain episcopal appointments.

In other instances, particularly beginning with Pope Gregory VII (1020–1085), the Church increasingly resisted “lay investiture” as undue interference in its proper freedom or *libertas ecclesiae* (“freedom of the church”). However, even though the famous “Investiture Controversy” that resulted involved intense and protracted conflict, it was played out between disputants who were all Catholic Christians, who all agreed far more than they disagreed. Above all, they agreed that the Church must enjoy *some* independent role in the appointment of bishops, and they also agreed that it was not *necessarily* illegitimate for temporal authorities to exercise some influence on episcopal appointments as well. The challenge was identifying a precise jurisdictional boundary and division of labor that both sides could accept.¹⁸

In this second example, the dimension of institutional religious freedom at issue was not so much the substantive or wholesale dimension of the religious community’s core

self-understanding as the vertical or retail dimension of *the precise scope, application, and limits of its line of authority*. This is not to say that the Investiture Controversy was not profound and consequential. Indeed, it illustrates the reality that “retail” encroachments on a religious community’s vertical religious freedom can over time endanger its “wholesale” independence. While it could be argued that none of the ad hoc bargains the Church made with temporal rulers in medieval Christendom fatally compromised its essential freedom, Pope Gregory VII initiated his extraordinarily consequential “Gregorian Revolution” partly to ensure that the Church would not negotiate away its independence by degrees and become the mere spiritual department of an ascendant Holy Roman Empire. A religious community that cannot choose its own leaders and personnel according to its own criteria and without outside interference is in an important way neither free nor independent. (The Investiture Controversy also illustrates that, on occasion, some of the most serious threats to a religious community’s institutional religious freedom can come from its putative friends and allies).

Issues related to the vertical dimensions of institutional religious freedom are numerous. According to Cole Durham, the vertical aspects of institutional religious freedom include a religious community’s authority over its senior leadership and clergy, lay individuals carrying out teaching functions and other ministerial roles, and individuals carrying out roles that are arguably secular. Additionally, all these aspects have been proven to be dynamic issues and a source of salient conflict and controversy in numerous contexts in recent years.

Consider the recent negotiations between the Vatican and the Chinese government over the appointment of bishops. The foregoing analysis of institutional religious freedom may help to clarify the terms of the negotiations and thus, in the process, may illustrate the value of careful attention to the distinct dimensions of this concept. Interpreted charitably, the Vatican appears to have sought from the Chinese government some recognition in principle of its hierarchical, episcopal structure and the supreme, extraterritorial authority of the Pope within this structure. In terms of our analysis, therefore, the Vatican apparently sought Chinese recognition of the *substantive* dimension of its institutional religious freedom (or at least a slice thereof). However, to achieve what it hopes will be a portion of its substantive religious freedom, it is manifestly willing to sacrifice at least a non-trivial portion of its *vertical* religious freedom, i.e., it is willing to accept a role for the Chinese government in the appointment of bishops. As the Investiture Controversy illustrates, however, where the civil authority has a large enough role in the appointment of bishops, the religious community’s governance structure arguably becomes, not merely quantitatively different, but a *qualitatively different kind of structure* in substance if not in name, and perhaps even verges on a *de facto* caesaropapism (O’Connell 2020).

Consider two other illustrative cases, one from China again and one from Egypt. Without undertaking a wholesale attack on the governance structure of Tibetan Buddhism and hence the substantive dimension of its institutional religious freedom, which it (quite reasonably) fears would be disastrously counterproductive, the Chinese government is attempting to limit the community’s vertical religious freedom by promoting its own hand-picked reincarnation of the Panchen Lama and eventual successor of the Dalai Lama. This the PRC is doing in open defiance of the Dalai Lama himself and, of the religious beliefs and sensibilities, it seems, of the vast majority of Tibetan Buddhists (Denyer 2016). In Egypt, President Abdel Fattah al-Sisi has apparently been using a combination of pressure, exhortation, and manipulation to coax the country’s Muslim leaders to undertake a “religious revolution” in response to Islamic radicalism. However, one official at Al-Azhar, Sunni Islam’s oldest seat of learning, claimed that Al-Azhar preachers resent state interference in their religious affairs. In effect criticizing the top-down subversion of the religious community’s vertical religious freedom, the official insisted, “Any change must come from scholars of Islam, not from the government” (Amin 2017).

Consider, too, the *Hosanna-Tabor* decision mentioned at the beginning of this article. In a 9-0 decision, in a case that squarely addressed the vertical dimensions of institutional

religious freedom (without addressing either its substantive or horizontal dimensions), the U.S. Supreme Court cited the legal and historical importance of the “autonomy of religious groups” and “religious autonomy” as a basis for giving religious organizations wide latitude in hiring and firing clergy and other employees who perform religious duties. The Court held that a “ministerial exception”—precluding the general application of employment discrimination laws to the employment relationship between a religious institution and its ministers—is grounded in the First Amendment Free Exercise Clause and Establishment Clause. Importantly, the decision explicitly argued that a religious community’s autonomy concerning the hiring and firing of employees is not restricted to senior leaders and clergy. Instead, the Court ruled that the authority to select and control all those who minister to the faithful must be the church’s alone.¹⁹ The question is whether institutional religious freedom demands more than simply respecting—or leaving alone—“internal” church decisions.

5. The Horizontal Dimensions of Institutional Religious Freedom

A third and often overlooked dimension of institutional religious freedom is horizontal. As noted above, the horizontal dimension of institutional religious freedom pertains to a religious community’s freedom to extend outward, as it were, and engage the wider society in systematic ways through the creation of core institutions, specialized institutions, and the organized manifestation and propagation of its religious message and teachings. This is undoubtedly the largest and most complex component of institutional religious freedom, comprising a wide variety of distinct but nonetheless closely interrelated freedoms, rights, and privileges.

One of the most important rights or privileges falling within the horizontal dimension of institutional religious freedom is the right to entity status. To what extent does a given religious community enjoy the right to acquire “legal personality” or the status of a recognized “legal entity” under the laws of the nation, region, or district in which it exists and operates? Under the conditions of the post-Westphalian, sovereign administrative state, religious communities often must acquire some kind of formal legal recognition or legal personality in order to mount an organized presence, own property and construct buildings, and engage and influence civil society and public life. This is, therefore, a fundamental aspect of institutional religious freedom. Additionally, available evidence suggests that there is enormously wide global variation in the registration requirements that governments use to grant and deny legal entity status to religious communities as well as to sub-entities they seek to establish for particular purposes (such as education, promotion of human rights and social justice, and charitable or humanitarian work).²⁰

It is important to note, though, that the acquisition of such legal personality or legal recognition is normally a precondition of effective religious influence but not necessarily a precondition of what one might call substantive religious existence. As Maryann Cusimano Love observes that many of the world’s major religious communities and traditions have existed long before most of the world’s nation-states and long before the creation of the Westphalian state system. To that extent, many religious actors are not so much non-state actors as “pre-state” actors. They precede the modern nation-state, and, therefore, their core substantive commitments and identities do not ultimately depend on the modern nation-state (Love 2018, 2011). At the same time, as in the case of post-revolutionary France, as well as in the more recent cases of Cambodia under the Khmer Rouge (1975–1979), China during the Cultural Revolution (1966–1976), or North Korea today, particular nation-states have sometimes engaged in such extreme efforts to restrict or eliminate the core institutional capacities of religious communities that they have posed an existential threat to these communities. In these extreme cases, it is the substantive dimension of institutional religious freedom, not merely the horizontal dimension, that is threatened.

Of course, apart from these extreme cases, a religious community’s substantive existence (and perhaps even significant social influence) may not be lost or threatened when it cannot acquire official or legal entity status. Religious communities have often survived

and thrived when they have been compelled to live an underground existence, whether extra-legal or illegal, as numerous historical and contemporary examples suggest. What restrictions on access to entity status do normally and directly influence is the horizontal freedom or capacity of religious communities to reach outward into their societies in a public and systematic way.²¹

Still, if restrictions on access to legal entity status go far enough, they can exercise a kind of institutional stranglehold and perhaps a slow-motion death sentence. While such a stranglehold may not threaten a religious community's immediate survival, it may doom it to marginality, decline, and even extinction in the long run. A contemporary example may be found in Turkey's treatment of the Ecumenical Patriarchate. The Turkish government refuses to grant legal standing or entity status to the Ecumenical Patriarchate, and this refusal carries far-reaching implications. "The lack of legal standing and status in essence nullifies property and other fundamental civil rights in Turkey for the Ecumenical Patriarchate which precludes its full exercise of religious freedom", according to one recent analysis. "Since it lacks a legal standing, the Ecumenical Patriarchate is powerless to pursue legal remedies to assert property rights or even seek to repair deteriorating property without government approval" (Bozonelis 2018).

To disaggregate the horizontal dimension of institutional religious freedom a bit further, based again on the analysis of Cole Durham, it undoubtedly includes the freedom to create legally recognized entities that are sufficient to carry out the full range of a religious community's activities, including charitable, educational, cultural, health, and humanitarian activities. Additionally, as the late Alfred Stepan noted in elaborating his important concept of the "twin tolerations", or the minimal conditions necessary for institutionalizing the relationship between religious and political authority in a way that is compatible with liberal democracy, institutional religious freedom must also include the right of religious communities to create civil society organizations, NGOs, and political parties.

As Stepan put it, religious communities "should also be able to publicly advance their values in civil society, and to sponsor organizations and movements in political society, as long as their public advancement of these beliefs does not impinge negatively on the liberties of other citizens, or violate democracy and the law, by violence. This core institutional approach to democracy necessarily implies that no group in civil society, including religious groups, can a priori be prohibited from forming a political party".²² In addition, institutional religious freedom includes the freedom of religious communities to create media organizations dedicated to promoting and propagating their religious message and the implications of this message for society. Additionally, it includes their right to create and operate for-profit corporations that reflect their religious values, though the precise scope and application of this right are a matter of disagreement (as is true, more or less, of all the features of institutional religious freedom discussed here) (Schwartzman et al. 2016).

Closely related to the freedom of religious communities to establish legally recognized entities and sub-entities to advance their religious mission is the freedom to seek and secure the financial resources necessary to operate and sustain these entities and sub-entities. Of course, if in a given context religious communities possess the right to create legal entities but do not have the right to fund and support them without undue and arbitrary restrictions, then their "right" to institutional religious freedom is merely formal and empty. Furthermore, what may seem like subtle restrictions on funding—such as the imposition of governmental limits on the amounts or types of foreign funding—can sometimes have devastating consequences for religious institutions (as well as other organizations) that are seeking to operate in contexts where there may not be significant indigenous sources of funding or traditions of philanthropic contribution to non-governmental organizations.²³

A final and critical aspect of the horizontal dimension of institutional religious freedom worth highlighting is the legally recognized right of religious communities to own, use, transfer, and rent property as well as construct buildings in order to carry out their distinctive activities. Much of the ability of religious communities to establish a presence in their societies depends on their ability to secure and maintain a quite literal and physical

presence in terms of visible houses of worship as well as other buildings dedicated to the fulfillment of their religious mission.

As prosaic and unglamorous as it may seem, the freedom of religious communities to acquire or rent a property and construct buildings for religious use is a frequent target of government regulation and interference and a common flashpoint in religion-state relations throughout the world. It is, for example, a major issue for unregistered churches and other religious communities in China.

Consider the case of the Shouwang Church. The Shouwang Church is a Protestant house church in Beijing and among the largest of some 3,000 such congregations in the city. After years of government harassment prevented the Shouwang Church from renting or buying a building, police finally forbade church members to hold services in the open air, placing the pastor under house arrest and detaining other congregants as well. According to the German weekly *Die Zeit*, Beijing police used some 4500 officers to provide surveillance of the area where the church had been hoping to meet as well as of the homes of about 500 church members in order to prevent the church from congregating. In response, in May 2011, the pastors of the Shouwang Church sent a petition to the National People's Congress not only protesting their mistreatment but also insisting on the positive social and political contributions of religious freedom: "We believe that liberty of religious faith is the first and foremost freedom in human society, is a universal value in the international community, and is also the foundation for other political and property rights".

For our purposes, one aspect of this case is striking. The dimension of religious freedom that the Shouwang Church was trying to exercise when it ran afoul of Chinese authorities was not individual but institutional and, in particular, horizontal. None of the specific individual dimensions of religious freedom that we often assume to be the core of this fundamental freedom—such as the individual right to choose, change, practice, or exit one's religion or the right to proselytize or manifest one's religion to other individuals—was at issue or directly threatened. Indeed, though the church was an unregistered house church, it grew for years, successfully evangelized, conducted innumerable Bible studies and other church meetings in members' homes, and won adherents even among intellectuals and Chinese Communist Party members—all without triggering official opposition or persecution.

What the Chinese authorities were determined to stop in 2011 were the Shouwang Church's repeated and increasingly public attempts to exercise rights and freedoms *as an institution or self-organizing community*, and, in this case, precisely the unglamorous or prosaic rights to purchase property and rent building space. Of course, China is not alone in this respect. Other countries in which religious communities face serious challenges to their horizontal rights to own property and construct buildings include Egypt, Russia, Vietnam, Turkey, Malaysia, and Indonesia.²⁴

A crucial addendum to the foregoing attempt to provide a rough definition and disaggregation of institutional religious freedom is that we take a religious community's right of self-determination to mean not just a right that exists in law, in theory, or on paper. Clearly, a country's constitution or laws may protect, or at least not expressly restrict, the institutional religious freedom of its people *de jure* while creating (or allowing) a social and political environment that limits or even nullifies its exercise *de facto*. In other words, the power or capacity of religious communities to be independent cannot be real and effective unless certain conditions are in place. For such a power to be effective and not merely transitory, unstable, and merely formal, it normally requires a combination of (a) transparent and publicized guarantees in law, (b) consistent protection and enforcement of these guarantees by relevant public authorities, and (c) the presence of a supportive social, cultural, and political environment that makes it possible for religious communities to be effectively independent. The absence of any one of these conditions may diminish or nullify institutional religious freedom as we have defined it.²⁵

6. Why Should We Value Institutional Religious Freedom?

In this section, we address a question that has, if anything, suffered even greater neglect: *Why should we value the self-organization of religious institutions?* Why does the freedom of religious institutions deserve presumptive deference? To the extent that there are fundamental elements of institutional religious freedom that have meaning across countries and contexts, what are the normative foundations of institutional religious freedom? Why do institutions as such have rights and freedoms that go beyond the rights and freedoms of their individual members? What is the moral or normative basis for recognizing and respecting institutional religious freedom as a distinctive form of freedom? The question of foundations is not only of theoretical interest but of crucial practical significance. For it is only when we grasp the grounds and goods that might justify institutional religious freedom that we can, for example, assess the weight of institutional religious freedom claims and balance them against the rights of individuals, including third parties that may be affected by the exercise of institutional religious freedom.

Influential answers to these questions have been offered. In a *locus classicus* of American discourse on religious freedom, James Madison, in his Memorial and Remonstrance of 1785, appears to identify a grounding for religious freedom that applies to institutions as much to individuals. According to Madison, “Religion is wholly exempt from [the] cognizance [of Civil Society]” and therefore “exempt” from the “authority” of the “Legislative Body”. Additionally, the rationale for this sweeping claim is that “religion” in its individual and corporate instantiations must answer to a higher authority, what Madison terms the “Universal Sovereign” or “Governor of the Universe”. Cécile Laborde and other liberal theorists offer another rationale: all of the expressive associations that individuals form around any of their deep commitments, religious or otherwise, warrant respect and basic freedom from interference because of the respect we owe to the dignity and autonomy of the individuals who form them (Laborde 2017).

Whatever the validity of these answers, one explicitly theistic and the other stringently liberal, they do not seem adequate for making a normatively broader and fully compelling case for the value of institutional religious freedom. A more complete case for institutional religious freedom, we believe, must come from a thick and nuanced account of the role that self-organizing religious institutions may play in achieving the common good of particular societies.

The reality, though, is that we lack such a thick and nuanced account of how and why self-organizing religious institutions contribute to the common good of particular societies. We do not have a sufficiently nuanced, comparative, and global appreciation of the distinctive ways religious institutions and religious communities as such mediate the influence of religion in society and contribute to the common good. In a few countries, mostly in the West and especially in the United States, we know a great deal about the instrumental contributions of religion, including religious institutions, to some aspects of the common good, including the accumulation of social capital, the promotion of altruistic behavior, the enhancement of health and life expectancy in individuals, and the delivery of social services. As a rule, however, when it comes to much of the rest of the world, discussion of religion’s social and political influence tends to revolve around an abstract catch-all category, “religion”, and there is less research anchored in a careful and empirical study of the precise vehicles or mechanisms whereby religion takes concrete shape and exercises influence, including the crucial vehicle of religious organizations and institutions.²⁶

It must be emphasized, though, that the problem is not only the limits of our empirical understanding but that at a deeper, theoretical level, we do not sufficiently appreciate the ways in which religious institutions and communities are not just agglomerations of religious individuals, which the common casting of religious communities as another form of “voluntary associations” tends to do, or effective “NGOs” and social-service mechanisms but distinctive wholes. Additionally, these wholes are of a special character in that they do not just pool or empower the religiosity of their individual members, but

they mediate the presence and influence of religion in qualitatively distinct ways. That is, they do not contribute to the common good only in an instrumental fashion. By realizing and embodying communal goods that can be experienced and actualized only in and through coordinated believing and acting, religious communities and institutions seem to play a direct, compelling, and perhaps unique role in realizing the common good of particular societies. Nonetheless, this dynamic is relatively poorly understood and cries out for deeper and richer understanding, and this deeper and richer understanding is precisely what our proposed initiative will pursue.

Still, despite our ignorance and all the necessary insight that awaits further research and understanding, we do know of at least eleven ways in which the available evidence strongly suggests that self-organizing religious institutions make distinctive contributions to the common good. Furthermore, the evidence seems to suggest that their ability to make these contributions depends significantly on their free and self-organizing quality, i.e., their quality as reasonably independent from the control of other actors, particularly the state, and thus in possession of at least some degree of freedom precisely as religious institutions. That is, generally speaking, religious institutions appear to need institutional religious freedom (in the specific dimensions and ways we delineated it in Section 1) in order to contribute to the common good of their societies.

Some of the pathways whereby self-organizing religious institutions promote the common good are well-grounded within traditions of moral and political thought and in extant scholarship; others are principled commitments that may be further analyzed by the proposed project. In any case, while all of these propositions, especially when taken together, provide solid *prima facie* grounds for the importance of religious institutions for the common good and for the importance of institutional religious freedom. We treat them as starting points for inquiry and hypotheses to be further tested, revised, and/or refined through further research.

First, despite a tendency in prevailing Western narratives to see an opposition between individual religious freedom and institutional religious freedom, there is ample reason to believe that self-organizing religious institutions are a crucial bulwark and, indeed, a precondition of individual human freedom in general and religious freedom in particular. Individual religious faith is never acquired or nourished in a sociological vacuum but almost always grows in the soil of some kind of network, community, or institution. Without self-organizing religious institutions and communities, the very ability of religious individuals to form, practice, protect, and transmit their religious life across space and time, from one generation to the next, is likely to be significantly reduced.

In terms of individual freedom, constitutional lawyer Frederick Schauer, as well as numerous other scholars, continue a line of argument that goes back at least to Edmund Burke, Alexis de Tocqueville, and, more recently, Mary Ann Glendon, by suggesting that civil society institutions—to the extent that they are genuinely self-organizing and autonomous—play an indispensable role in protecting individual rights by providing counterweights to the influences of the government and the market.²⁷ Although there is some tendency in prevailing narratives to cast religious communities and “organized religion” as threats to religious freedom and social flourishing and progress, it is also true that religious communities can serve as a bulwark of individual religious freedom, not to mention as a vehicle for constructive and peaceful public dissent. Far from being an inevitable enemy of individual religious freedom, strong religious institutions and thus strong institutional religious freedom are often important, if not indispensable, to the exercise, nourishment, and defense of the individual dimensions of freedom of religion and conscience.²⁸

Second, self-organizing religious institutions serve not just the interests of individuals but the common good of diverse societies in numerous ways. We noted earlier that Katherine Marshall provides a useful mapping of the variety of religious institutions that operate around the world. Her mapping not only provides a sense of the sheer variety of religious institutions in terms of their scale and purpose. It also provides a sense of

their enormous contributions to the global common good (Marshall 2013). In country after country, Marshall finds, particularly in Africa and many parts of Asia, religious institutions are a large source of social, educational, health, and humanitarian services. To name but one example, “[f]aith-inspired organizations offer a significant proportion of health services in Cambodia, helping to reduce child mortality, improve maternal health, and combat HIV/AIDS, malaria, and other diseases” (Delaney and Scharff 2010). Furthermore, based on an analysis of the World Values Survey, Marshall also finds that in nations as different as France, India, Britain, Zambia, Brazil, South Africa, and Argentina, individuals surveyed express far greater confidence in religious organizations than in their own governments or the United Nations (Marshall 2013, p. 44).

Indeed, in several recent works across a number of disciplines, scholars have demonstrated that the independence of religious institutions and religious actors vis-à-vis the state is a strong predictor of various important religious, social, and political outcomes. In *God’s Century*, Monica Toft, Daniel Philpott, and Timothy Shah demonstrate through an extensive global analysis and numerous detailed case studies that religious actors with higher degrees of institutional “independence” vis-à-vis political authority are far more likely than religious actors with high degrees of institutional “integration” with state authorities to engage in peacebuilding and promote transitional justice, to engage in efforts to resist authoritarian rulers and promote the inauguration and consolidation of democratic regimes, and *not* to be involved in religious civil wars or religious terrorism (Toft et al. 2011).

In a series of significant studies, the economist Timur Kuran has demonstrated that what slowed the economic development of the Middle East was not colonialism or geography, still less Muslim attitudes or some incompatibility between Islam and capitalism. Kuran demonstrates that, to the contrary, starting around the tenth century, Islamic law, which had benefited the Middle Eastern economy in the early centuries of Islam, began to act as a drag on development by, among other things, slowing or blocking the emergence of independent religious institutions (Kuran 2010). The results were a relative lack of religious pluralism and a comparatively weak civil society in many Muslim-majority societies, which, in turn, not only helped retard the development of stable self-government and economic dynamism but also helped encourage the growth of violent Islamist extremism (Farr 2008).

Third, self-organizing religious institutions are a vital driver of achieving basic moral and social goods in society, including moral and social norms and discourses that have served the global common good. This is no place for a comprehensive discussion of such a vast and diffused dynamic, but one example that may be cited is that religious institutions have played an important role in defining and constructing the official and quasi-official moral and legal norms that help to define the global order. In the last century in particular, religious institutions have played a crucial role in widening the normative vision of the major players in international politics to include a robust recognition of the rights, needs, and dignity of individual human beings. One way to describe this faith-inspired normative shift is that religious traditions such as Christianity, Islam, Judaism, Jainism, Buddhism, and Hinduism have contributed in different ways to what could be called a norm of global humanitarianism. According to the norms of humanitarianism, every human being on the face of the earth is equally entitled to a certain set of basic immunities, protections, and goods, including rights not to be tortured, not to die of starvation, rights of freedom of expression and conscience, including religious freedom, and the rights even of prisoners of war not to be subject to “inhumane” treatment.

On this general subject, Michael Barnett provides a historically rich and conceptually illuminating treatment, *Empire of Humanity*, which emphasizes the constitutive role of specific religious institutions in the development of global humanitarianism. “Religious beliefs”, Barnett writes, “were critical to the origins of humanitarianism and continue to influence its unfolding”, and in almost every case, it was self-organizing religious institutions and movements that were the indispensable carriers of these beliefs (Barnett 2011). To cite but one concrete example that highlights the influential role of self-organizing

religious institutions that acted largely independently of political control or influence, in the mid-twentieth century, before the end of World War II, a movement of ecumenical Protestants active in the World Council of Churches and the American Federal Council of Churches (now the National Council of Churches) lobbied intensely and effectively for an international body and an international charter dedicated to promoting global peace and human rights. The impact of this one religious movement on the global common good was, and remains, incalculable (Nurser 2005).

Fourth, self-organizing religious institutions—and the freedom that gives them a social and political voice—are a particularly important resource for the socially and politically vulnerable and marginalized. The wealthy do not generally need religious institutions—or any other civil society institution—in order to generate or project social and political power because they have a ready ability to translate their abundant relationships and financial resources into direct political influence. However, as the seminal work of political scientists Sidney Verba, Kay Schlozman, and Henry Brady suggests, without the opportunity to participate in certain kinds of self-organizing religious institutions and communities that are independent of the powers that be, particularly poor and marginalized people are less likely to acquire important civic skills and resources as well as avenues of political mobilization—skills, resources, and avenues that are necessary to offset the political disadvantages that typically accompany lower socio-economic status and race-based discrimination (Verba et al. 1995).

For example, it is hard to imagine the Civil Rights Movement without the personal influence and leadership of the Rev. Dr. Martin Luther King, Jr. However, it is perhaps even harder to imagine the Civil Rights Movement without the Southern Christian Leadership Conference and its vast network of autonomous black congregations, which equipped, empowered, organized, and mobilized a generation of otherwise marginalized and disempowered African-Americans for the Civil Rights struggle in countless, irreplaceable ways (Harris 2001). Self-organizing religious institutions and communities often confer on the poor and marginalized a power and resilience to mobilize and organize—especially in the face of fierce opposition—as well as exercise levels of public influence they might not otherwise enjoy. In so doing, they help to give the poor and marginalized the ability to resist unjust structures and influence the common good via changes in public policy and law as well as cultural norms.²⁹

Fifth, history and contemporary experience both suggest that self-organizing religious institutions can serve as powerful and effective restraints on state power while at the same time contributing to the common good. In numerous historically significant instances, strong religious institutions have often proven to be powerful and effective peer competitors with the temporal powers that be. It is obvious, however, that this capacity to serve as a bulwark against state power, and to resist state-imposed determinations of the public good and their reflection in law and culture, can be operative only insofar as religious communities are self-organizing and possess at least some degree of effective institutional religious freedom in its various dimensions, particularly vertical and horizontal. The Investiture Controversy of the 11th century is the classic illustration. However, the background circumstances and events that led to the Magna Carta in the following century are equally illustrative.³⁰

In recent history, think of the enormously significant resistance to varying forms of political tyranny set in motion by Nahdlatul Ulama (the world's largest Muslim organization, which exists entirely of state control) and other independent Islamic civil society organizations in Indonesia in the 1990s, by Catholic and Protestant churches during the military dictatorship in South Korea in the 1970s and 1980s, by organizations of Buddhist monks in Burma in the mid-2000s, by churches and other religious organizations during the anti-apartheid struggle in South Africa in the 1980s and 1990s, by the Catholic Church and the Solidarity movement in Poland in the 1980s, and by the Catholic hierarchy as well as religious lay movements in the Congo today.³¹

Religious institutions play a valuable role in countering government domination even when the state is not authoritarian. In democratic states, as Tocqueville observed, religious institutions may help counter the corruption, despotism, social lethargy, and cultural disintegration that tend to occur when the state exercises undue influence over determinations of the common good, public morality, and the direction of society (de Tocqueville 1835). Additionally, as Michael McConnell, Robert George, and William Saunders have pointed out, societies are more likely to flourish when determinations of what constitutes the common good and the degree to which such determinations are reflected in law and public policy are decided by free and equal competition between the voluntary institutions of civil society, including voluntary religious institutions, rather than the state alone. For example, McConnell observes that in the American constitutional settlement, religious institutions play a role analogous to the free press. Conversely, the latter is designed as a check on the government and as a means of shaping public opinion independent of the state, so too are religious institutions intended to help shape public morality and the common good independent of the state (McConnell 1989; George and Saunders 1996).

Here again, the public effort by the Chinese Shouwang house church to defend its religious freedom is revealing. After the crackdown on Shouwang, the state-owned *Global Times* newspaper commented, “[A] church should not become a power which can promote radical change . . . Otherwise, the church is not engaged in religion but in politics, which is not allowed for a church” (Spegele 2011). In other words, the Chinese authorities saw in Shouwang’s actions and statements a special and indeed political threat precisely insofar as it was acting as an institution or organized community. From the Chinese government’s point of view, it seemed, a church can be tolerated to the extent that it is essentially nothing more than an agglomeration of private individuals engaged in private religious activity. However, the moment that it begins to act as an organized community in the public spotlight, and on public issues, it ceases to be a “church” in the benign and harmless sense. It becomes, instead, “a power which can promote radical change”.

Perhaps inadvertently, in other words, the Chinese government’s response to Shouwang reveals a striking acknowledgment—and fear—of the potential power and importance of institutional religious freedom. For it is only with such freedom that religious communities can limit what may otherwise be the unlimited power of political authorities. States and governments are not the only public institutions, and they do not have a monopoly on organized, public action on behalf of the common good.

Sixth, an emphasis on institutional religious freedom may yield a more balanced and more universal vision of human freedom in general and religious freedom in particular. Most people in most of the world, even in Western countries, are not committed to a pure or extreme version of the “rugged individualism” Robert Bellah and his co-authors so memorably described and decried in their modern classic, *Habits of the Heart* (Bellah et al. 2008). Most people in most places seek a balance between respect for the individual and respect for community, associations, institutions and organizations. A vision of religious freedom in which the rights of religious institutions and communities are just as central as the rights of individuals is more likely to find a wider resonance and appeal amidst the world’s cultural, philosophical, and religious diversity, in which communitarian and traditional outlooks bulk large (Bell 1993, 2000).

The response of the Shouwang Church in China to the persecution it faced is once again illustrative. Strikingly, the way the Shouwang Church framed and defended its religious freedom in its petition to the National People’s Congress was devoid of the language of individualism, individual rights, freedom of conscience, and personal freedom but instead expressly focused on the more communal values of “peaceful civil society”, “social stability”, “ethnic solidarity”, and “the nation’s prosperity”. In other words, Shouwang’s 2011 manifesto, if it can be called that, was not the Universal Declaration of Human Rights translated into Chinese.

Rather than a declaration of individual rights, it was, even in its format, a collective statement: it was organized and formulated by the church’s pastors on behalf of an entire

church community. In addition, these Chinese Christians spoke a language that reflected the communitarianism of their culture and society, as well as their common fidelity to a transcendent source of being and meaning. In its substance, their argument was not framed around a Western-style heroic individualism based on freedom of conscience—a Chinese equivalent of Martin Luther’s “Here I Stand”—but rather around a patriotic appeal to communal values such as harmony, stability, and prosperity. As one young member of the church told *Washington Post* columnist Michael Gerson, the congregation is mainly “intellectuals and professionals” who “respect the government, love the country, respect authority” (Gerson 2011). The Shouwang Church made the argument that respecting its religious freedom—its freedom as a self-organized and orderly community faithful to God—would not profit individuals or individual freedom or even the Shouwang Church as much as it would benefit Chinese society as a whole. The Shouwang Church experience suggests that a focus on institutional religious freedom is likely to resonate with the way many people, especially outside the West, instinctively understand their religious freedom and why it is valuable to them.

Seventh, institutional religious freedom may provide a better and deeper barometer of the extent to which any given society is configured and structured for religious freedom and other basic freedoms than other widely used indicators, such as numbers of individuals suffering religious harassment, discrimination, or persecution. How many individuals suffer imprisonment or torture for their beliefs about religion in any given country is certainly one crucial and indispensable indicator of the state of religious freedom in that country. However, a deeper and longer-term indicator is the freedom and ability of persons with shared religious beliefs to organize, control, finance, sustain, and assemble their own religious communities and institutions across time, legally and securely, from one generation to the next. This is because the presence of independent, self-organizing religious institutions in a society says something about a society’s basic structure or fundamental social and political order. All other things being equal, a society with a diverse and thriving array of autonomous, self-organizing religious institutions is one that is more likely to possess a high degree of dynamism, pluralism, and, over the long term, social and political stability. Or at least this is a pattern or relationship that social science gives us reason to expect under some conditions.

Many existing measures of global religious freedom and global religious restrictions, however, such as that of the Pew Research Center, are highly sensitive to incidents, events, and episodes that may fluctuate significantly and even wildly from year to year. However, such incidents may reflect external events or dynamics over which even well-ordered regimes have little control. Furthermore, such incidents and events may say little about the basic condition of religious freedom for the vast majority of people in the given society. For example, just as the Doing Business index may provide a better long-term indicator of a country’s economic environment and economic strength than, say, a fluctuating stock market, so too a country’s level of institutional religious freedom—insofar as it can be measured—may provide a better and deeper long-term indicator of a country’s religious freedom environment than the number of religion-related terrorist attacks or frequency of religion-related hate crimes.³² Furthermore, just as governments can take concrete measures to improve their scores on the Doing Business index because these scores reflect policies and regulations that are well within the control of most states, so too a focus on institutional religious freedom will tend to place the spotlight on government policies and regulations vis-à-vis religious institutions that states can control and modify if they have the will to do so.

Eighth, institutional religious freedom may permit religious communities to develop their own sites of institutional power and authority, which, in turn, may make them more able to anchor themselves in their own authentic sources and self-understanding and thereby resist authoritarian political manipulation. In an era of growing tribalism fueled in part by an increasing melding of religion and nationalism, many unscrupulous political actors around the world seek to recruit religious identities, symbols, and concerns to advance their

own partisan political agendas—agendas that often, at the root, have little to do with core religious or theological concerns and commitments. To the extent that religious communities are freer to develop independent institutions that reflect their own authentic theological authorities and traditions and are therefore freer to find and express their own voice in society, they are to that extent more able to control their own message and less likely to be vulnerable to manipulation, co-option, and politicization, either by non-religious actors or by religious actors that are less authentic carriers of a given religious tradition.

Ninth, institutional religious freedom may enable and empower self-organizing religious communities to build the kinds of enduring communities and organizational structures that are an increasingly desirable if not essential antidote to widespread global trends towards greater social alienation, isolation, and anomie. The dangers of social isolation and disconnection have become even more alarming and apparent amidst the global COVID-19 pandemic. As more and more social networks and “connections” tend to be merely virtual in more and more of the world’s societies, it becomes all the more important to ensure that religious communities—often a leading generator of valuable social capital—enjoy the freedom to build robust institutions and organizations that are capable of facilitating robust, face-to-face, and authentic communal bonds and forms of fellowship.³³

Sherry Turkle, in her book *Alone Together*, which documents the negative impact of modern social media on community, observes that the root of the word “community” literally means “to give among each other” and argues that this kind of authentic sharing requires “physical proximity” and “shared responsibilities (Deneen 2018, pp. 94–95)”. There is indeed strong evidence that religious institutions and organized religious communities are an important source of face-to-face community and social capital, not only within the walls of their houses of worship but also in ways that spill out into their neighborhoods (Putnam 2020; Campbell and Putnam 2014). Summarizing this research, *Atlantic* writer Emma Green recently wrote, “Churches, synagogues, and mosques influence life well outside their walls: People who belong to religious institutions are more civically engaged than their secular neighbors. They are more likely to serve on school boards, volunteer at charities, and join clubs”. The decline or disappearance of these communities can therefore come at a high price. “In the absence of these institutions, communities can become fractured and isolated. Neighborly infrastructure decays” (Green 2017).

Tenth, self-organizing religious institutes demonstrate and actualize the communal features of religion, which may well be close to the heart of religion. Institutional religious freedom protects the communal features of religion, and these features may well be intrinsic to both the nature and the good of religion. Religion, undoubtedly, has elements that are irreducibly individual and interior. On the other hand, equally undoubtedly, as John D. Zizioulas demonstrates in his modern classic, *Being as Communion: Studies in Personhood and the Church*, much of what religion is all about, and much of the good that it transmits, can be lived and experienced only in and through communion and community. Most of the world’s lived religious traditions would surely affirm that religion cannot be fully and authentically lived—and perhaps cannot be lived at all—if it is lived exclusively as a matter of individual belief, private experience, or interior spirituality. This becomes even more plausible to the extent we have a clearer idea of what religion really is.

We noted at the beginning of the article that on the compelling and elegant definition of religion originated by Melford Spiro, developed by Martin Riesebrodt, and eloquently advocated of late by Christian Smith, religion is “a complex of practices that are based on the premise of the existence of superhuman powers, whether personal or impersonal, that are generally invisible” (Smith 2018). As a matter of fact, Tyler VanderWeele of the Harvard School of Public Health, based on his own research and an extensive review of the biomedical literature on religion and health, has found that participation in communal religious services—not individual religiosity—appears to be the strongest predictor of a variety of positive health outcomes, including longevity (VanderWeele 2017). Here, perhaps,

the discoveries of social science and epidemiology are converging with the insights of theology and interpretive sociology.

Eleventh, there are strong reasons to believe that affording religious institutions the maximum freedom to be autonomous and self-organizing is a far better antidote to the inevitable existence of dangerous, authoritarian, and extremist religious institutions and communities than any available alternative. Belief in the value of institutional religious freedom is not naïve. It is not predicated on piety that all religious institutions are a source of sweetness and light. When Robert Putnam analyzed and bemoaned the decline of social capital in America, he had to acknowledge that some social capital comes in dangerous packages. Think of tight-knit gangs or crime families.

A similar reality obtains with religious institutions. In the aggregate, there seems to be a good reason to think that religious institutions have a wide range of positive effects under most circumstances. However, it is undeniable that many religious institutions, in history and the present day, have generated or sanctified hatred, intolerance, oppression, injustice, fanatical violence, and inequality.

This is a reality with which proponents of institutional religious freedom—and proponents of religious freedom in general—must reckon. Remarkably, though, the very ambivalence of religious institutions constitutes another strong and independent reason to believe in the value of institutional religious freedom.

In fact, the threat and the reality of bad and even violent religious institutions are one more reason to favor more freedom for religious institutions rather than less freedom. Though it may be counter-intuitive, strong evidence suggests that the best antidote to dangerous or hate-filled religious institutions is not the heavy-handed, top-down elimination of religious freedom and outright repression of those institutions. On the contrary, as Nilay Saiya has demonstrated in a series of articles and in his groundbreaking book, *Weapon of Peace: How Religious Liberty Combats Terrorism*, it is precisely a severe religious restriction that tends to beget violent religious reaction, including in the form of religious terrorism. While restrictive policies sometimes spring from the good intention of stopping or mitigating violent religious extremism, analysis by Saiya and other scholars strongly suggests that religious repression plays a real and significant causal role in exacerbating as well as metastasizing religious violence. Conversely, societies with more religious freedom tend to have far less religious terrorism, in part because religious freedom under the rule of law creates an environment of peaceful religious contestation in which, for example, dangerous and intolerant religious groups must compete with more tolerant religious groups in the marketplace of ideas and in the court of public opinion (Saiya 2016, 2018). The more room societies provide for religious institutions and communities to be free and self-organizing, the less of a problem they seem to have with religious terrorism and violent religious extremism.

7. Conclusions

I am glad that what happens in Las Vegas generally stays in Las Vegas. As a rule, however, what happens in churches and other religious institutions is too important and too valuable to stay within their walls. In order to ensure that what is incubated in religious institutions is free to spread well beyond their sanctuaries, we need a broader, rich, and truly multi-dimensional understanding of institutional religious freedom that goes beyond giving religious institutions concessive carve-outs and ministerial “exceptions” so they can be left alone. Such protections are necessary, to be sure. However, so much more is at stake than the internal autonomy or the well-being of religious organizations in a narrow sense. What is at issue is not just the negative freedom of religious institutions. What is at issue is the hundreds of millions of people around the world—human beings both religious and non-religious—whose political, social, economic, and spiritual flourishing (and not infrequently survival) depends on the self-organizing dynamism of religious institutions of all kinds. Institutional religious freedom is not merely constitutionally correct. In its positive and expansive dimensions, it is globally essential.

In my view, the profound human needs that the COVID-19 pandemic has so dramatically accentuated argue not for restricting religious institutions as much as possible but for unleashing them as much as feasible—while respecting, of course, the essential requirements of public health. This is because religious institutions are demonstrably effective in providing a wide array of basic health and welfare services that the devastating effects of the current crisis have made more essential than ever—especially for the poor, the elderly, and the young. More profoundly, however, this is also because the current crisis has dramatically underscored the far-reaching reality and devastating consequences of a lack of spiritually meaningful and embodied community of the sort that strong religious institutions and religious groups are uniquely able to provide and promote in a wide range of societies and cultures across the globe. In today’s increasingly atomized and dangerously divided world, there may be no greater public policy priority or, more clearly, “essential service”.

Funding: Here is the language we have requested to be included for all articles in this special issue: “Work on this paper was made possible by a grant from the John Templeton Foundation to the Religious Freedom Institute for a three-year research project on the Freedom of Religious Institutions in Society”.

Institutional Review Board Statement: Not applicable.

Informed Consent Statement: Not applicable.

Data Availability Statement: Not applicable.

Conflicts of Interest: The author declares no conflict of interest.

Notes

- ¹ *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*, 565 U.S. 171 (2012). See particularly the opinion by Chief Justice John Roberts, who wrote for a unanimous majority. The facts of the case, as summarized on Oyez, were that “Cheryl Perich filed a lawsuit against the Hosanna-Tabor Evangelical Lutheran Church and School in Redford, Mich., for allegedly violating the Americans with Disabilities Act when they fired her after she became sick in 2004. After several months on disability, Perich was diagnosed and treated for narcolepsy and was able to return to work without restrictions. However, she said the school at that point urged her to resign and, when she refused, fired her”. Later, “Perich filed a complaint with the Equal Employment Opportunity Commission, which ruled in her favor and authorized a lawsuit against the school”. However, “[a]ttorneys representing Hosanna-Tabor Evangelical Lutheran Church and School argued that the ‘ministerial exception’ under the First Amendment should apply in their client’s case. The exception gives religious institutions certain rights to control employment matters without interference from the courts”. Ultimately, in a unanimous judgment written by Chief Justice John Roberts and handed down in January 2012, “the Court held that Perich was a minister for the purposes of the Civil Rights Act’s ministerial exception, dismissing Perich’s suit and her claims for damages. Chief Justice Roberts described the history of the ‘ministerial exception,’ established by courts to prevent state interference with the governance of churches, a violation of the First Amendment’s establishment and free exercise clauses. He rejected the EEOC and Perich’s argument that these clauses of the First Amendment are irrelevant to Hosanna-Tabor’s right to choose its ministers” (<https://www.oyez.org/cases/2011/10-553> (accessed on 3 June 2021)).
- ² For an argument that the scope of the principle of religious freedom implied or presupposed by the (unanimous) majority in *Hosanna-Tabor* is in fact too restrictive, see (Farr 2020).
- ³ Associate Justice Samuel Alito, concurring opinion, *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*, 565 US_(2012).
- ⁴ See the texts by Pope Gelasius I and Pope Gregory VII helpfully assembled and insightfully interpreted by (O’Donovan and O’Donovan 2006).
- ⁵ For an exploration of how frequently bodies of Islamic scholars or *ulema*—as individuals and as more-or-less organized and institutionalized associations—argued for as well as practiced a large degree of independence from political authority and thus institutional religious freedom in a robust and meaningful sense, particularly in the early centuries of Islam, see (Kuru 2019). Moreover, consistent with the argument of this article, Kuru argues that the institutional religious freedom of *ulema* was a major causal factor in the progress of Muslim societies where and when it was practiced and, conversely, a major ingredient in Islamic “underdevelopment” where it has not been practiced. The study by (Lapidus 2014) confirms Kuru’s observation that a significant institutional differentiation between the *ulema* and political authorities has been far less rare in Islamic societies than is often assumed. Indeed, the largest Muslim organization in the world today—Indonesia’s 90-million member *Nahdlatul Ulama*, or “Awakening of Scholars”—is an institutionalized body of Islamic scholars, teachers, and their followers that has been independent of political control since its founding in 1926. For discussions of the large degree of autonomy Hindu priests (or Brahmins)—as a body and as a class—enjoyed vis-à-vis political authorities in traditional India, see (Basham 1959). Additionally, in Theravada

- Buddhist societies, throughout history as well as today, the order of monks, the *sangha*, is characterized by a substantial degree of organizational coherence and independence and, in some respects, in the description of Donald Eugene Smith, “constituted a check on the king’s power in the traditional Buddhist state” (Smith 1966).
- 6 See, (Laycock 1981), p. 1373.
- 7 See, for example, (Alvaré 2014; Schwartzman et al. 2016.)
- 8 Here I closely follow Daniel Philpott’s cogent reflections on the nature and definition of religion in his *Religious freedom in Islam: the fate of a universal human right in the Muslim world today* (Philpott 2019).
- 9 In Latin, the noun “*religio*” may be related to the verb “*religare*”—“to re-bind” or “to bind back”. Amidst immense current controversy concerning the meaning and definition of “religion”, it is crucial to note (though it is seldom acknowledged) that the core (“descriptive”) meaning and nature of religion as such will inevitably remain elusive except insofar as it is grasped from within such a first-person standpoint or, in other words, from the perspective of practical reason. Jacques Maritain thus eloquently captured the core “business” or point of religion *per se* when he observed that “[i]t is something to know that God is a transcendent and sovereign Self; but it is something else again to enter oneself and with all one’s baggage—one’s own existence and flesh and blood—into the vital relationship in which created subjectivity is brought face to face with this transcendent subjectivity and, trembling and loving, looks to it for salvation. This is the business of religion” (Maritain 2015, location 1064 of 2148 in the Kindle Edition). In some respects, without apparently being conscious of Maritain, Martin Riesebrodt (2012) provides a sociological elaboration of Maritain’s theological insight.
- 10 For a careful social-scientific argument—rooted in critical realism and personalism—that human beings are naturally religious in this sense, see (Smith 2018).
- 11 Merriam-Webster Dictionary, “Institution”. Available online: <http://www.merriam-webster.com/dictionary/institution> (accessed on 27 May 2021).
- 12 For the website of the Young Men’s Buddhist Association of America, which provides information on the institution’s history, purposes, and activities, see <https://www.ymba.org> (accessed on 3 June 2021).
- 13 For an outstanding discussion of the enormous and wide-ranging impact of Nahdlatul Ulama (as well as another large Islamic civil society organization, Muhammadiyah) on Indonesia’s political history from the NU’s founding in 1926 through the country’s democratic transition in the late 1990s, see (Hefner 2011). For a discussion of the NU’s impact in recent years, especially with respect to the promotion of religious freedom and tolerance, see (Shah and Shah 2020).
- 14 (Durham 2001). For a more recent and comprehensive statement, see W. Cole Durham, Jr., “Religious autonomy at the crossroads”, in (Durham 2021). On the Freedom of Religious Institutions in Society (FORIS) Project at the Religious Freedom Institute, see <https://www.religiousfreedominstitute.org/foris-project> (accessed on 3 June 2021).
- 15 Much of this history is ably recounted and clarified, with numerous primary texts, in (Rahner 2005).
- 16 At the time, the abolition of the Caliphate deeply disturbed Muslims around the world, causing significant reverberations in far-away India, for example. Decades later, Osama bin Laden, in his famous videotaped message of 7 October 2001, shortly after the 9/11 attacks, referred to the “humiliation and disgrace” that Islam has suffered for “more than eighty years”. Analysts generally believe that his primary historical reference was to the Turkish abolition of the Ottoman Sultanate and Caliphate in 1922 and 1924, respectively, i.e., about eighty years earlier. See, for example, (Lawrence 2005).
- 17 “Concluding Document of the Vienna Meeting of Representatives of the Participating States of the Conference on Security and Cooperation in Europe”, adopted in Vienna on 17 January 1989. The proposal quotes from selected sections, which are available at <https://www.religlaw.org/content/religlaw/documents/viennamtgcsce1986.htm> (accessed on 3 June 2021).
- 18 For an analysis and collection of the relevant primary sources, see (Tierney 1996; Lindsay 1962).
- 19 *Hosanna-Tabor Evangelical Lutheran Church and School v. Equal Employment Opportunity Commission*, 565 U.S. 171 (2012).
- 20 On registration requirements for religious groups, see the article by (Finke et al. 2017). See also (Fox 2015).
- 21 On the remarkable ability of religious communities and institutions to eke out a remarkable degree of freedom and independence even under conditions of severe and systematic repression, see Fenggang Yang’s discussion of black, red, and gray religious markets in China, in (Yang 2006, 2012). See also Yang’s (2012).
- 22 (Stepan 2001). See also Michael McConnell’s argument that the U.S. Constitutional guarantee of the “free exercise” of religion was intended to protect the public exercise of religion by communities as well as individuals, in (McConnell 1989).
- 23 Worth noting is that challenges of funding in Global South contexts are probably much more likely to hamper fundraising for religious sub-entities engaged in charitable, educational, or human rights advocacy work than for core religious and ministry institutions (e.g., churches, mosques, temples, etc.). On the challenges and opportunities of fundraising for local NGOs in the Global South, both secular and religious, see (Ron et al. 2017).
- 24 That the Chinese government does not consider horizontal rights of property and building construction prosaic or insignificant is further illustrated by the recent case of the Golden Lampstand Church in Shanxi Province, an underground church with some 50,000 worshippers. Though authorities tolerated the existence of the church for years, the large and visible worship hall the church built for itself was not something they could accept. In early January 2018, China’s paramilitary “People’s Armed Police” took over the building, packed it with explosives, and then finished the demolition with excavators. See (Goldman 2018).
- 25 The case of the early Christians in the late Roman Empire also illustrates the ways in which full institutional religious freedom depends on both cultural acceptance and legal recognition. The early Christians won rapidly growing social acceptance, particularly among certain groups and social classes, in the 2nd and 3rd centuries. At the same time, they existed in a kind of legal limbo. They were probably not the object of formal or explicit legal condemnation or proscription by imperial authorities, but nor

- did they enjoy the formal legal recognition apparently accorded to some other groups—the status of “*religio licita*” (permitted religion) enjoyed by Judaism, for example. This legal ambiguity meant that Christians were vulnerable to ad hoc and sometimes intense persecution at the behest of either local magistrates or emperors, particularly since Christianity was already suspect as a new religion with tendencies (in some Roman eyes) towards obstinacy and factionalism. Christianity’s ambiguous legal status did not necessarily prevent it from spreading from individual to individual, but it did greatly limit its institutional religious freedom. Indeed, Roman refusal to accord Christians even a modicum of legally defined and protected freedom to organize themselves and assemble for acts of public worship or “liturgy” (based on the Latin word *leiturgia*, or “public work”)—which is to say, the rudiments of institutional religious freedom—was a frequent source of Christian protest, as may be seen in the famous “Apology” of the early North African church father Tertullian. See (Tertullianus 1998).
- 26 See, aside from Marshall’s valuable monograph, *Global Religious Institutions*, her World Faiths Development Dialogue and its series of rich “mappings” of religious institutions and their impact on development in several countries, including Bangladesh, Cambodia, and Guatemala. See also (Madsen 2007; Iyer 2018).
- 27 See generally (Schauer 2005) and, earlier, (Glendon and Yanes 1991) and (Glendon 1993). Even earlier, though from a perspective informed more by sociology and public policy than by law, Peter L. Berger and Richard John Neuhaus articulate a similar argument in their classic volume, *To Empower People* (Berger and Neuhaus 1977). For the analysis provided by Tocqueville, see “How the Americans Combat Individualism with Free Institutions” and “On the Use That the Americans Make of Associations in Civil Life” (Mansfield and Winthrop 2000). Earliest of all, in his *Reflections on the Revolution in France*, Burke said, “To be attached to the subdivision, to love the little platoon we belong to in society, is the first principle (the germ as it were) of public affections. It is the first link in the series by which we proceed towards a love to our country and to mankind” (Burke 2009).
- 28 For excellent discussion of the liberty-protecting potential of civil society institutions in general, see (Hirst 1997).
- 29 On the reading of Eugene Genovese, in his modern classic, (Genovese 1976), America’s black slaves could create a “world” of resistance to the dehumanizing institutions and practices to which they were subjected in no small part because they could create and control their own religious institutions, suffused with religious narratives of their own construction. For a similar account that focuses on the self-organizing religious institutions of black slaves, see (Raboteau 2004).
- 30 Virtually all the issues that fired the burning conflict between the Archbishop of Canterbury Thomas à Becket and English King Henry II from 1164 to 1170, eventually leading to Becket’s murder at Henry’s behest in December 1170, pertained to institutional religious freedom. Significantly, according to the account of John of Salisbury, Becket, as he received the blows from his assassins, uttered the words, “And I for my God am ready to die, and for the declaration of justice and *the liberty of the Church*”. By a complex but still definite route, Becket’s resistance helped to lead—a few decades later—to the Magna Carta in 1215, the first clause of which declares, “In the first place we have granted to God, and by this present charter have confirmed for us our heirs in perpetuity, that the English Church shall be free, and shall have her rights entire, and her liberties inviolate”. See, for example, the illuminating discussion and presentation of the relevant primary source materials in a chapter entitled “The Freedom of the Church: The English Experience, 1160–1260”, in (Noonan 1987).
- 31 For a summary discussion of the democratizing role played by these and other religious movements in recent decades, see (Toft et al. 2011), pp. 82–120.
- 32 According to the “Doing Business” website, “The *Doing Business* project provides objective measures of business regulations and their enforcement across 190 economies and selected cities at the subnational and regional level”. It adds: “The *Doing Business* project, launched in 2002, looks at domestic small and medium-size companies and measures the regulations applying to them through their life cycle”. See <http://www.doingbusiness.org> (accessed on 3 June 2021).
- 33 On the costly decline of just these forms of face-to-face religious community and fellowship, see, generally, (Campbell and Putnam 2014).

References

- Alvaré, Helen, ed. 2014. *The Conscience of the Institution*. South Bend: St Augustine’s Press.
- Amin, Shahira. 2017. Rift widens between Egyptian president, Al-Azhar. *Al-Monitor: The Pulse of the Middle East*. February 26. Available online: <https://www.al-monitor.com/pulse/originals/2017/02/egypt-sisi-azhar-rift-religious-leaders-tawadros-morsi.html> (accessed on 3 June 2021).
- Barnett, Michael N. 2011. *Empire of Humanity: A History of Humanitarianism*. Ithaca: Cornell University Press, p. 20.
- Basham, Arthur Llewellyn. 1959. *The Wonder That Was India: A Survey of the Culture of the Indian Sub-Continent before the Coming of the Muslims*. New York: Grove Press, pp. 81, 86–87.
- Bell, Daniel A. 1993. *Communitarianism and Its Critics*. Gloucestershire: Clarendon Press.
- Bell, Daniel A. 2000. *East Meets West: Human Rights and Democracy in East Asia*. Princeton: Princeton University Press.
- Bellah, Robert N., Richard Madsen, William M. Sullivan, Ann Swidler, and Steven M. Tipton. 2008. *Habits of the Heart: Individualism and Commitment in American Life*. Berkeley: University of California Press.
- Berger, Peter L., and Richard John Neuhaus. 1977. *To Empower People: The Role of Mediating Structures in Public Policy*. Washington, DC: American Enterprise Institute.
- Berman, Harold Joseph. 1983. *Law and Revolution: The Formation of the Western Legal Tradition*. Cambridge and London: Harvard University Press.
- Bozonelis, Theodore. 2018. Turkey: The systematic persecution of religious minorities. *Human Rights without Frontiers*. February 16. Available online: <https://publicorthodoxy.org/2018/02/09/religious-persecution-in-turkey/> (accessed on 3 June 2021).

- Burke, Edmund. 2009. *Reflections on the Revolution in France*. Edited by L. G. Mitchell. Oxford: Oxford University Press, pp. 46–47.
- Campbell, David E., and Robert D. Putnam. 2014. *American Grace: How Religion Divides and Unites Us*. New York: Simon & Schuster.
- de Tocqueville, Alexis. 1835. On the Principle Causes Tending to Maintain a Democratic Republic in the United States. In *Democracy in America*. New York: A Mentor Book from New American Library, pp. 264–301.
- Delaney, Augustina, and Michael Scharff. 2010. *Faith-inspired Organizations and Development in Cambodia*. Washington, DC: World Faiths Development Dialogue, p. 15.
- Deneen, Patrick J. 2018. *Why Liberalism Failed*. New Haven: Yale University Press.
- Denyer, Simon. 2016. China prepares for Dalai Lama's death by looking to its own top Tibetan cleric. *The Washington Post*, September 26. Available online: https://www.washingtonpost.com/world/asia_pacific/china-pushes-its-panchen-lama-into-spotlight-in-preparation-for-post-dalai-era/2016/09/25/7c28ac20-7f5e-11e6-ad0e-ab0d12c779b1_story.html?utm_term=.c7018a86b0c8 (accessed on 3 June 2021).
- Durham, W. Cole, Jr. 2001. The Right to Autonomy in Religious Affairs: A Comparative View. In *Church Autonomy: A Comparative Survey*. Edited by Gerhard Robbers. Frankfurt: Peter Lang.
- Durham, W. Cole, Jr. 2021. *Law, Religion, and Freedom: Conceptualizing a Common Right*. Edited by Javier Martínez-Torrón and Donlu Thayer. London and New York: Routledge, pp. 257, 265–70.
- Eisenstadt, Shmuel Noah. 1962. Religious Organizations and Political Process in Centralized Empires. *Journal of Asian Studies* 21: 272. [CrossRef]
- Farr, Thomas. 2008. *World of Faith and Freedom: Why International Religious Liberty is Vital to American National Security*. Oxford: Oxford University Press, pp. 217–72.
- Farr, Thomas F. 2020. The ministerial exception: An inquiry into the status of religious freedom in the United States and abroad. In *Religious Freedom and the Law: Emerging Contexts for Freedom for and from Religion*. Edited by Brett G. Scharffs, Asher Maoz and Ashley I. Woolley. London and New York: Routledge, pp. 25–38.
- Finke, Roger, Dane R. Mataic, and Jonathan Fox. 2017. Assessing the Impact of Religious Registration. Unpublished paper. 28.
- Fox, Jonathan. 2015. *Political Secularism, Religion, and the State: A Time Series Analysis of Worldwide Data*. New York: Cambridge University Press.
- Galston, William A. 2002. *Liberal Pluralism: The Implications of Value Pluralism for Political Theory and Practice*. Cambridge: Cambridge University Press.
- Genovese, Eugene. 1976. *Roll, Jordan, Roll: The World the Slaves Made*. New York: Vintage Books.
- George, Robert P., and William L. Saunders. 1996. Romer v. Evans: The Supreme Court's Assault on Popular Sovereignty. *Civil Rights Practice Group Newsletter* 1. no. 1. Available online: <https://fedsoc.org/commentary/publications/romer-v-evans-the-supreme-court-s-assault-on-popular-sovereignty> (accessed on 4 June 2021).
- Gerson, Michael. 2011. In Search of China's Soul. *The Washington Post*, May 13, p. A17.
- Glendon, Mary Ann. 1993. *Rights Talk: The Impoverishment of Political Discourse*. New York: Free Press.
- Glendon, Mary Ann, and Raul F. Yanes. 1991. Structural Free Exercise. *Michigan Law Review* 90: 477–550. [CrossRef]
- Goldman, Russell. 2018. Chinese Police Dynamite Christian Megachurch. *New York Times*. January 12. Available online: <https://www.nytimes.com/2018/01/12/world/asia/china-church-dynamite.html> (accessed on 3 June 2021).
- Green, Emma. 2017. The Quiet Religious-Freedom Fight That is Remaking America. *The Atlantic Monthly*. November 5. Available online: <https://www.theatlantic.com/politics/archive/2017/11/rliupa/543504/> (accessed on 15 April 2021).
- Gueniffey, Patrice. 2015. *Bonaparte: 1769–1802*. Translated by Steven Rendall. Cambridge and London: Harvard University Press, p. 734.
- Harris, Fredrick C. 2001. *Something Within: Religion in African-American Political Activism*. New York: Oxford University Press.
- Hefner, Robert W. 2011. *Civil Islam: Muslims and Democratization in Indonesia*. Princeton: Princeton University Press.
- Hirst, Paul. 1997. *From Statism to Pluralism: Democracy, Civil Society, and Global Politics*. London: UCL Press, pp. 120–23.
- Iyer, Sriya. 2018. *The Economics of Religion in India*. Cambridge: Harvard University Press.
- Kuran, Timur. 2010. *The Long Divergence: How Islamic Law Held Back the Middle East*. Princeton: Princeton University Press.
- Kuru, Ahmet T. 2019. *Islam, Authoritarianism, and Underdevelopment: A Global and Historical Comparison*. Cambridge and New York: Cambridge University Press.
- Laborde, Cécile. 2017. *Liberalism's Religion*. Cambridge: Harvard University Press.
- Lapidus, Ira M. 2014. *A History of Islamic Societies*. New York: Cambridge University Press.
- Lawrence, Bruce B., ed. 2005. *Messages to the World: The Statements of Osama Bin Laden*. London: Verso.
- Laycock, Douglas. 1981. Towards a General Theory of the Religion Clauses: The Case of Church Labor Relations and the Right to Church Autonomy. *Columbia Law Review* 81: 1373–417. [CrossRef]
- Lindsay, A. D. 1962. *The Modern Democratic State*. New York and Oxford: Oxford University Press, pp. 64–83.
- Love, Maryann Cusimano. 2011. *Beyond Sovereignty: Issues for a Global Agenda*. Australia: Wadsworth.
- Love, Maryann Cusimano. 2018. Christian Transnational Networks Respond to Persecution. In *Under Caesar's Sword: How Christians Respond to Persecution*. Edited by Daniel Philpott and Timothy Samuel Shah. Cambridge and New York: Cambridge University Press, pp. 457–58.
- Madsen, Richard. 2007. *Democracy's Dharma: Religious Renaissance and Political Development in Taiwan*. Berkeley: University of California Press.

- Harvey Mansfield, and Delba Winthrop, transs. 2000. *Democracy in America*. London: University of Chicago Press, pp. 485–92.
- Maritain, Jacques. 2015. *Existence and the Existent*. Kindle Edition. New York and Mahwah: Paulist Press.
- Marshall, Katherine. 2013. *Global Institutions of Religion: Ancient Movers, Modern Shakers*. New York and London: Routledge.
- Marshall, Paul. 2021. Institutional Religious Freedom: An Overview and Defense. *Religions* 12: 364. [CrossRef]
- McConnell, Michael W. 1989. The Origins and Historical Understanding of Free Exercise of Religion. *Harvard Law Review* 103: 1488–91.
- Noonan, John T., Jr. 1987. *The Believer and the Powers That Are: Cases, History, and Other Data Bearing on the Relation of Religion and Government*. New York: Macmillan, pp. 21–35.
- Nurser, John. 2005. *For All Peoples and All Nations: The Ecumenical Church and Human Rights*. Washington, DC: Georgetown University Press, p. 58.
- O'Connell, Gerard. 2020. The China-Vatican agreement has been extended. Now, Rome is looking for more from Beijing. *America Magazine*. November 17. Available online: <https://www.americamagazine.org/politics-society/2020/11/17/china-vatican-agreement-rome-beijing-pope-francis-catholic> (accessed on 28 May 2021).
- O'Donovan, Oliver, and Joan Lockwood O'Donovan. 2006. *From Irenaeus to Grotius: A Sourcebook in Christian Political Thought*, 100–625. Grand Rapids: Eerdmans, pp. 177–79, 240–49.
- Philpott, Daniel. 2019. *Religious Freedom in Islam: The Fate of a Universal Human Right in the Muslim World Today*. New York: Oxford University Press.
- Putnam, Robert David. 2020. *Bowling Alone: The Collapse and Revival of American Community*. 20th Anniversary Edition. New York: Simon & Schuster Paperbacks.
- Raboteau, Albert J. 2004. *Slave Religion The "Invisible Institution" in the Antebellum South*. Oxford: Oxford University Press.
- Rahner, Hugo. 2005. *Church and State in Early Christianity*. San Francisco: Ignatius Press.
- Riesebrodt, Martin. 2012. *The Promise of Salvation: A Theory of Religion*. Chicago: University of Chicago Press.
- Ron, James, Shannon Golden, David Crow, and Archana Pandya. 2017. *Taking Root: Human Rights and Public Opinion in the Global South*. New York and Oxford: Oxford University Press.
- Saiya, Nilay. 2016. Religion, state, and terrorism: A global analysis. *Terrorism and Political Violence* 31: 204–23. [CrossRef]
- Saiya, Nilay. 2018. *Weapon of Peace: How Religious Liberty Combats Terrorism*. Cambridge and New York: Cambridge University Press.
- Sandel, Michael J. 1982. *Liberalism and the Limits of Justice*. Cambridge: Cambridge University Press.
- Schauer, Frederick. 2005. Towards an Institutional First Amendment. *Minnesota Law Review* 89: 1256–279. [CrossRef]
- Schwartzman, Micah J., Chad Flanders, and Zoë Robinson, eds. 2016. *The Rise of Corporate Religious Liberty*. Oxford: Oxford University Press.
- Shah, Timothy Samuel, and Rebecca Shah. 2020. *Indonesia Religious Freedom Landscape Report 2020*. Washington, DC: Religious Freedom Institute, Available online: <https://static1.squarespace.com/static/57052f155559869b68a4f0e6/t/5f34524992021e34b58624ac/1597264467556/Indonesia+Landscape+Report+ONLINE.pdf> (accessed on 4 March 2021).
- Smith, Donald Eugene. 1966. *South Asian Politics and Religion*. Princeton: Princeton University Press, p. 14.
- Smith, Christian. 2017. *Religion: What it Is, How it Works, and Why it Matters*. Princeton: Princeton University Press.
- Smith, Christian. 2018. Are Human Beings Naturally Religious? In *Homo Religiosus? Exploring the Roots of Religion and Religious Freedom in Human Experience*. Edited by Timothy Samuel Shah and Jack Friedman. Cambridge: Cambridge University Press, pp. 35–54.
- Spegele, Brian. 2011. China's Banned Churches Defy Regime. *Wall Street Journal*, July 28, p. A1.
- Stepan, Alfred C. 2001. The World's Religious Systems and Democracy: Crafting the 'Twin Tolerations'. In *Arguing Comparative Politics*. New York and Oxford: Oxford University Press, p. 217.
- Tertullianus, Quintus Septimius Florens. 1998. *Apology*. Translated by Terrot R. Glover. Cambridge: Harvard University Press.
- Tierney, Brian. 1996. *The Crisis of Church and State, 1050–1300*. Toronto: University of Toronto Press in association with the Medieval Academy of America.
- Toft, Monica, Daniel Philpott, and Timothy Shah. 2011. *God's Century: Resurgent Religion and Global Politics*. New York: W.W. Norton & Company.
- Tollefsen, Christopher. 2018. Religious Liberty, Human Dignity, and Human Goods. In *Homo Religiosus?: Exploring the Roots of Religion and Religious Freedom in Human Experience*. Edited by Timothy Samuel Shah and Jack Friedman. New York and Cambridge: Cambridge University Press, pp. 230–42.
- VanderWeele, Tyler J. 2017. Religion and health: A synthesis. In *Spirituality and Religion within the Culture of Medicine: From Evidence to Practice*. Edited by John Peteet and Michael Balboni. New York: Oxford University Press.
- Verba, Sidney, Kay L. Schlozman, and Henry E. Brady. 1995. *Voice and Equality: Civic Voluntarism in American Politics*. Cambridge: Harvard University Press.
- Wilken, Robert L. 2019. *Liberty in the Things of God: The Christian Origins of Religious Freedom*. New Haven: Yale University Press.
- Yang, Fenggang. 2006. The Red, Black, And Gray Markets of Religion in China. *The Sociological Quarterly* 47: 93–122. [CrossRef]
- Yang, Fenggang. 2012. *Religion in China: Survival and Revival under Communist Rule*. New York: Oxford University Press.

Article

Institutional Religious Freedom: An Overview and Defense

Paul Marshall ^{1,2}

¹ Institute for Studies of Religion, Baylor University, Waco, TX 76706, USA; pmarshall@hudson.org

² Religious Freedom Institute, Washington, DC 20003, USA

Abstract: The idea of institutional religious freedom has become increasingly controversial, especially in the United States, and pressure for such freedom has been growing. The notion that institutions, including commercial ones, can have religious freedom rights has been described as unprecedented. However, the notion of such religious freedom has deep historical roots in a wide range of settings, is deeply intertwined with the growth of free societies, and is tied to the nature of religions themselves. This also applies to religious commercial institutions, which are far more widespread than commonly recognized. I focus particularly on what is it about such institutions that needs protecting and emphasize that what is central is the particular practice that typifies the organization. It needs the freedom to be what it is and to live out a religious commitment. If this calling is denied or subverted, then the institution loses its *raison d'être*. One of the principal reasons for forbidding government discrimination on matters such as religion is precisely so that private institutions will be able to appropriately employ staff and carry out policies according to their own particular beliefs as to what supports their distinctive mission. Governmental neutrality is intended to be a foundation for a lively and diverse societal pluralism, not for society to become a mirror of the government itself.

Keywords: religious freedom; rights; institutions; organizations; for profit; jurisdiction; vocation

Citation: Marshall, Paul. 2021. Institutional Religious Freedom: An Overview and Defense. *Religions* 12: 364. <https://doi.org/10.3390/rel12050364>

Academic Editors: Timothy Shah and Nathan A. Berkeley

Received: 20 April 2021
Accepted: 12 May 2021
Published: 20 May 2021

Publisher's Note: MDPI stays neutral with regard to jurisdictional claims in published maps and institutional affiliations.



Copyright: © 2021 by the author. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

1. Introduction

The idea of institutional religious freedom has become increasingly controversial and confused in recent years, especially in the United States, and pressure for such freedom has been growing. The notion that institutions and organizations, including commercial ones, can have rights has been described as outlandish and unprecedented. Much of the controversy relates to the still common American supposition that rights and their concomitant freedoms can apply only to individuals. Contentious U.S. Supreme Court decisions, such as *Citizens United* and *Hobby Lobby*, have also contributed to widespread suspicion about the rights and freedoms of institutions.¹

Given this situation, I will in this paper attempt to give an overview and defense, with historical and contemporary examples, of the roots of institutional religious freedom, its nature and extent, and what particularly needs to be protected for these institutions in terms of competence and vocation. I argue that one of the principal reasons for forbidding government discrimination on matters such as religion is precisely so that private institutions, and not only religious ones, will be able to appropriately employ staff and carry out policies according to their own particular beliefs as to what supports their distinctive mission. As Laborde (2017, p. 125) puts it: “the state should be secular so that citizens do not have to be.” Governmental neutrality is intended to be a foundation for a lively and diverse societal pluralism, not for society to become a mirror of the government itself (McConnell 2020).

One key issue on this topic has been growing dispute and uncertainty over the very nature of rights themselves, so I will seek to address that first (Rhodes 2018; Moyn 2019).

2. Rights

Despite very stiff competition, the notion of *rights* is perhaps the most confused concept in our political vocabulary. Human rights are the most common way of addressing normative issues in politics worldwide and are central to many modern theories of ethics, of politics and to many laws. However, the varied types of rights—including but not limited to human rights, natural rights, civil rights, moral rights, subjective rights, and legal rights—are often conflated when, in fact, each can refer to quite distinct entities and have few direct connections (Marshall 1992, pp. 661–76). Within each of these categories, there are many further possible subdivisions. For instance, Hohfeld (1919) developed a very complex fourfold distinction of rights as privileges or liberties, claims, powers, and immunities.

Among international human rights treaties, the International covenant on Civil and Political Rights (ICCPR) subjects its rights guarantees to different limiting conditions; some are non-derogable while others are derogable under certain emergency conditions. The International Covenant on Economic, Social and Cultural Rights presents its rights as necessary goals rather than as the limiting conditions that predominate in the ICCPR. The rights that stem from government restraints can be enacted by almost any functioning government, whereas there may be legitimate reasons why a government cannot fulfill other economic or political rights at a particular time (Marshall 2020a).

Indeed, the very word *right*, especially in the United States, often loses specific content and becomes merely a general term implying approval or disapproval, commendation or criticism. For instance, I could say “you have no right to speak to me like that,” meaning that you are wrong to do so, without implying that you have no legal right to insult me. Something desirable becomes treated as a right and something undesirable as a no-right.

Additionally, within current political battles, opponents usually vie to appropriate the mantle of rights for their own position. As Sumner (1987, p. 8) pointed out: “it is the agility of rights, their talent for turning up on both sides of an issue, which is simultaneously their most impressive and their most troubling feature. Clearly, interest groups which agree on little else agree that rights are indispensable weapons in political debate.” In Ronald Dworkin’s terms, rights are “trumps”, and it will not help you to simply have high cards of your own, such as fairness, justice, equity, or propriety: you need your own trump to beat a trump. In this situation, rights are especially potent rhetorical weapons: “if one interest group has built its case on an alleged right none of its competitors can afford not to follow suit . . . they will tend to proliferate and to escalate” (Sumner 1987). Such proliferation and escalation is apparent throughout the world, and especially in the United States.

As a result, despite widespread emphasis on rights, there is little clarity about what we mean or should mean when we discuss issues related to rights, and this has worsened when the differences over institutions are added.

3. Historical Institutional Rights

In the United States, the emphasis on individual rights has resulted in what Glendon (1991, pp. x–xi, 14) describes as an “excessive homage to individual independence and self-sufficiency,” and a focus on the “individual and the state at the expense of the intermediate groups of civil society” (Frohnen and Grasso 2009). This, in turn, makes it “extremely difficult for us to develop an adequate conceptual apparatus for taking into account the sorts of groups within which human character, competence, and capacity for citizenship are formed . . . For individual freedom and the general welfare alike, depend on the condition of the fine texture of civil society—on a fragile ecology for which we have no name” (Glendon 1991, pp. 109–10).² Even Ignatieff (2003), who holds that all rights are finally individual, cautions that an exclusive focus on individual human rights as the source of political norms can become idolatry.

Here, I will focus on legal rights and argue that they may be held by institutions in terms of self-definition, self-governance, and self-directed action and expression. In the West, analogous rights have been held by institutions for millennia. Some of these, of

course, have been subordinate political entities, such as cities, towns, villages, and colonies that were granted charters to exercise rights and powers or were otherwise founded on a covenant and oath (Berman 1983, p. 393).

However, such rights have been and are held by more than political entities. One prime example is, of course, the Church, which has had the right to own land, carry out ecclesiastical trials, choose or appoint leaders, determine doctrine, grant academic credentials, run hospitals and schools, and perform multifarious functions related to the lives of its members or constituents. As Berman (1983, pp. 268–69) wrote: “The competition between the ecclesiastical and the secular court had a lasting effect on the Western legal tradition. Plural jurisdiction and plural legal systems became a hallmark of Western legality . . . Underlying the competition . . . was the limitation of the jurisdiction of each.” Similarly, Sabine (1961, p. 180) wrote “The rise of the Christian Church, as a distinct institution entitled to govern the spiritual concerns of humankind in independence of the state, may not unreasonably be described as the most revolutionary event in the history of western Europe, in respect both to politics and to political thought.” Henry Kissinger also opined “Restraints on government derived from custom, not constitutions, and from the universal Catholic Church, which preserved its own autonomy, thereby laying the basis—quite unintentionally—for the pluralism and the democratic restraints on state power that evolved centuries later” (Kissinger 2001, pp. 20–21).³ I will return to church and state questions below.

Other organizations, such as guilds and professional societies, also had rights to determine the training and qualifications and character needed for membership and to perform particular lines of work. They were understood as much more than mere means of work and income. The term “profession” itself partly derives from the profession of faith and commitment that a candidate made on entry into the guild’s order, analogous to entering a monastic order (Gedefroy [1881] 2019).⁴ Indeed, Berman describes guilds as originally “sworn brotherhoods whose members were bound by oaths to protect and serve one another” so they might provide “for the spiritual, and not only the material, aspects of their members’ lives.” He notes that guilds could also be lawmaking bodies with their own authority (Berman 1983, pp. 390–91).⁵

Accordingly, there was often no sharp distinction between a religious body and an economic one. These aspects could be understood as intertwined—both could be described by terms such as *profession*, *calling*, or *vocation* (Marshall 1996).⁶ While this sense of meaning has been weakened in the modern era, aspects of it remain. There is still often a formal commitment, including ethical standards, required upon entry into professions such as medicine and law, which also maintain their own governing bodies, rules, and standards, and which have the authority to take disciplinary action. Trade unions have exercised some similar functions, and many still describe themselves as “brotherhoods,” such as the International Brotherhood of Electrical Workers and the International Brotherhood of Teamsters.

More strictly, commercial corporations have also been granted extensive rights, frequently too much so. Some, such as the British East India company, the Vereenigde Oost-Indische Compagnie, or the Xinjiang Production and Construction Corps, have exercised governmental, including military, powers and often have done so brutally.⁷ Thankfully, the rights of commercial bodies have now usually been trimmed to better fit their purpose and organization, but they still maintain a range of rights.

So, legal rights have been long held by institutions and organizations, and there is a growing emphasis on this in the U.S. and elsewhere (Schwartzman et al. 2016; Muñis-Fraticelli 2014).

4. Rights and Collective Bodies

There has recently been a stress on the notion of “group rights,” a notion ably defended by William Kymlicka and others. He argues that certain rights are related to social practices, cultural meanings, and a shared language and that these are “owed to people as members of a particular community, rather than universal rights owed to all people as human beings”

(Kymlicka 2000, p. 206; Kymlicka 1994, pp. 17–33). However, given his and others' focus on indigenous and language communities, the language of "group rights" can be misleading. He is arguing less that an organized group itself bears rights *as an organization* and more that its members may properly have moral and legal rights different from those of non-members. In this sense, he is arguing principally for differential rights held by people, rather than for organizational or institutional rights per se.⁸

Not all collective bodies can bear institutional rights. As Kymlicka argues, people with different characteristics may properly have some different rights. Indigenous tribes may have different hunting and fishing rights different from those who do not come from a tribal background on the grounds that this reflects longstanding traditional rules and customs, perhaps analogous to common law. Such rights, moreover, may be central to indigenous lives and livelihood in ways that they are not for others. There may also be differing language rights, as in Canada, where not only French and English but also traditional indigenous languages are granted legal status in certain regions of the country.⁹

However, while these rights pertain to particular sets of people, or members of a people group, rather than to all people residing in a particular state or area, they still remain individual or personal rights. They are differentiated according to specific, shared characteristics and are not rights held by collective entities as such.¹⁰ One exception to this can be the situation of indigenous peoples who have not only shared social practices, cultural meanings, and language but many of whom live in organized entities that have their own legal structure, such as the Navajo Nation or the Seneca Nation of Indians. These are institutional rights-bearing entities and have legal jurisdictions.

Institutional rights can only be held by bodies actually capable of exercising rights and duties. For instance, Francophones, or red-headed persons, or left-handed people do not have institutional rights. Such classes of people have no collective legal personality.¹¹ However, an organized body such as a tribe, mosque, university, or a flower shop can have rights. These organized bodies can receive a bill or write a check; they can bring a lawsuit or be sued; they can buy and sell property. In short, they have legal personality (Muñis-Fraticelli 2014, pp. 195–96). My late professor, Bernard Zylstra, suggested a shorthand guide to determining whether a collective body has legal personality, observing that it depends on whether you can write a letter to or phone it, or it to you. It is possible to phone or write to representatives of the Navajo Nation, but not to Native Americans as such. If such an organized structure is not present then the body is not an institution and does not have legal agency or personhood.¹² This recalls the famous statement widely, though falsely, attributed to Henry Kissinger: "Who do I call if I want to speak to Europe?" implying that the EU was not, in foreign affairs at least, an organized entity (Rachman 2009).

5. Religion

Of course, the nature of rights and possible rights-bearing institutions only addresses one part of the issues—we must now turn to the equally contested concept of religion. While many agree that there is a set of phenomena that we can properly call religious, there is no universally accepted definition or specification of what religion is. Indeed, Volf (2005) has written: "I'm somewhat hesitant to designate any of the world's faiths as 'religions' because the very notion of 'religion' is a product of modernity; it represents the reduction in a living and encompassing faith to a sphere—a religious one—within the larger secular society." Cavanaugh (2009, p. 3) maintains that the category "religion" has been "invented in the modern West and in colonial contexts according to specific configurations of political power." Milbank (2006, 2013) asserts "Once, there was no 'secular'."

Commonly, Islam and Christianity are accepted as religions, but other situations are less clear. Since Buddhism does not entail belief in a God or gods and is still usually accepted as a religion, then neither theism nor deism is presumably a necessary element. However, if this is so, is Confucianism also a religion? Or Taoism? If we include these, we might be getting close to treating religion as any ultimate or basic belief, commitment or

practice, whether or not others regard it as “secular.” In many places in the world, atheists may be persecuted for holding atheistic beliefs (Humanists International 2020). It seems appropriate to describe this as religious persecution but is, then, being an atheist or an agnostic a religious stance?

Political movements, such as Communism or Fascism, have been described as “political religions” (Voegelin 1986). Several Western European countries treat “secular humanism” as something to be recorded in official listings of “religions and beliefs.” Belgium, for example, recognizes and funds secular humanism (*la laïcité*) on the same basis as it does explicit religions. Article 181 of its constitution guarantees the payment of the wages and the retirement pensions of ministers of recognized religions and also the “moral assistants” of secular humanism (Fautré 2008, p. 95). Hence, there is a plausible claim that a wide range of people and institutions are in some ways religious in that they embody some ultimate commitment that shapes them. This reflects some established theological positions and practices and also recent trends in religious freedom.

In the case of conscientious objection, courts and international bodies have often concluded that it would be unjust to give conscientious objector status to those with religious objections to serving in combat while denying it to those with deeply held “secular” beliefs. In these cases, courts and legislatures have extended this right to religion-like beliefs, even if they are not held to be directly religious. In considering conscientious objection, the U.S. Supreme Court has held that the legal protections around it could apply to a “sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by God” (United States v. Seeger 1965).¹³ In a similar vein, the most common expression in international religious freedom matters is “freedom of religion or belief” (FoRB).

Hence, there are good grounds for holding a very extensive view of what counts as religion and, therefore, a religious institution. However, a drawback to this approach is that the definition could become so broad that little would be left out. If everything is religious, then functionally, nothing is. Additionally, the use of the word “religion” would be far removed from that most commonly used in law and public discourse.

An alternative would be something akin to Kathleen Brady’s reworking of Daniel Philpott’s suggested definition, which is that “Religion is an interconnected set of beliefs and practices through which people answer the grand questions of life by seeking to live in relationship to the ultimate power or powers that grounds reality and is present to them in the real circumstances of their lives. They do this most characteristically through worship and similar practices seeking a connection with the divine. Religion typically involves related rituals, a community, a clerical professional, and a moral code grounded in the sacred realm” (Personal Communication 2020).¹⁴ This definition is not tight—definitions of religion can usually be either accurate or precise but not both—but it does capture what most scholars and ordinary people think of as religion, while also including a range of fundamental beliefs that function “like religion.”

Under this understanding of religion, which I adopt in this paper, a shorthand description of a religious institution is one that is shaped by a particular set of beliefs and practices oriented to ultimate questions of reality.

6. The Range of Religion

There is general agreement that churches, mosques, synagogues, temples, and similar organizations are religious institutions—both as particular congregations and also as larger organized entities, such as the Catholic Church or the Islamic Society of North America. This recognition is usually also extended to “para-church” organizations with quasi-church functions, such as the Billy Graham Evangelistic Association, and to institutions, such as seminaries, that train clergy.

However, there has recently been an increasing tendency to narrow the scope of religious freedom beyond these types of organizations. For a time, President Barack Obama, otherwise often a defender of faith-based groups, and then Secretary of State

Hilary Clinton, started using the phrase “freedom of worship” in place of “freedom of religion,” as though the only thing that religions do is worship (Miller 2016). One striking example was when, in 2010, the United States Court of Appeals for the Ninth Circuit held that the massive Christian humanitarian organization World Vision was a religious organization—its employees needed to sign a statement of faith upon employment and this had to be renewed each year. However, in a dissent, Judge Marsha Berzon asserted that, in order to determine whether an organization is religious, “we ask *only* whether the primary activity of a purportedly religious organization consists of voluntary gathering for prayer and religious learning” (emphasis in original). She remarked that most of World Vision’s work was humanitarian relief “providing potable water, emergency medical, and vocational training . . . that is on its face, secular. In short, World Vision is nothing like a church” (Spencer v. World Vision Inc 2010).¹⁵

Justice Berzon was on the losing side of this case but, over the last decade, views such as those she has expressed have become increasingly widespread. Religion is increasingly said to be private, or else should be required to be private—not merely in the sense that we might refer to a company, university, school, or charity as private, but as something much more akin to “intimate,” “personal,” or something separate from it which does not, or should not, impinge on social or public life.¹⁶ One of the most striking examples of this is the “Equality Act” introduced on February 18, 2021, in the 117th Congress, which would, *inter alia*, prevent religious organizations from using the Religious Freedom Restoration Act as a defense against discrimination claims.

These assertions betray an ignorance of religion. Saying that an activity is “secular” simply means it is “non-religious,” which begs the question. There is much that I am ignorant of about with many religions, but none that I know of teaches that the duties of its followers are simply confined to worship and religious learning. President Obama himself distanced himself from his earlier language of “freedom of worship” and, on a trip to Vietnam in 2016, emphasized that, when there is freedom of religion, “it allows faith groups to serve their communities through schools and hospitals, and care for the poor and the vulnerable” (Miller 2016).

Religions normally include laws, practices and ethical demands, usually including humanitarian demands, and sometimes these might even be given priority over prayers or sacrifices or learning (Monsma and Carlson-Thies 2015, pp. 51–66; Beckwith 2019). One of the most famous examples is in the first chapter of Isaiah:

“Stop bringing meaningless offerings!
Your incense is detestable to me.
New Moons, Sabbaths and convocations—
I cannot bear your worthless assemblies.
Your New Moon feasts and your appointed festivals
I hate with all my being.
They have become a burden to me;
I am weary of bearing them.
When you spread out your hands in prayer,
I hide my eyes from you;
even when you offer many prayers,
I am not listening. Your hands are full of blood!

This is how the prophet says that God responds to “worship” that is separate from support for the poor and weak. In its place, we each are called:

Learn to do right; seek justice.
Defend the oppressed.
Take up the cause of the fatherless;

plead the case of the widow.” (vv. 13–15, 17)

These very well-known texts, amongst those central to Western religious traditions, assert that prayers, worship and sacrifice will be rejected, *that they are even offensive to God*, unless the people do justice and defend the oppressed and succor the widow. They call for the primacy of love of God and our neighbors. In modern deracinated language, humanitarian acts can count for more than liturgical ones, though such a distinction would have been meaningless for the Israelites and many others.

That the “humanitarian” and liturgical dimensions of religious life are necessarily interwoven is also shown in ancient Israel’s celebration of the Sabbath and the Jubilee. Every fiftieth year was to be a Jubilee year that had rules to alleviate poverty, including that land which had been previously sold was to be freely returned to the seller so that the major economic resources would continue to be spread among the population (Lev. 25:6). However, the Jubilee was also to be proclaimed on the Day of Atonement, the day when Israel commemorated their release from Egypt, introducing a year that “proclaimed the Lord’s release” (Deut. 15:2; Lev. 25:9–10). It was not a simple redistribution of wealth but also part of a liturgy of reenactment; “You shall remember that you were a slave in the land of Egypt, and the Lord your God redeemed you; *therefore* I command you this today” (Deut. 15:15, emphasis added). It was not a simple “economic” act but was also, at the same time, an act and test of faith, a facet reinforced by the commandment that Israel was also not to plant crops for two years but rely solely on God’s bounty. (Lev. 25:20–21).¹⁷

Additionally, as the letter from the Apostle James puts it: “Religion that is pure and undefiled before God the Father is this: to visit orphans and widows in their affliction . . .” (James 1:27).¹⁸ Famously, for James, “faith without works is dead.”

One of the five Pillars of Islam is the duty to pay *Zakat*, sometimes ranked as next after prayer, *Salat*, in importance. The obligation of *Zakat* instructs all Muslims who can do so to donate a certain portion of their wealth each year to charitable causes, especially to the poor. Indeed, in the Qur’an, the duties of *Salat* and *Zakat* are paired twenty-eight times—they simply go together (National Zakat Foundation n.d.). This is simultaneously both a humanitarian act and a religious act. For a believing Muslim, suggesting that it must be one or the other would be meaningless and perhaps offensive.

There is often a similar claim that if something is political then it is not religious. However, this, similar to the contrast between religious and humanitarian, is akin to saying that a table is not round but red. However, tables can be both round and red, and politics and parties can be both religious and political.

America’s and Canada’s founding documents, and those of many other countries, reference God. The first paragraph of the American Declaration of Independence refers to the “equal station to which the Laws of Nature and of Nature’s God entitle them . . .” Additionally, it holds that “all men are created equal, that they are endowed by their Creator with certain unalienable Rights . . .” Not simply “are equal” but “*created* equal.” Equality stems from the fact that we have been created. Lest this be thought of as simply an irrelevant archaic reference, we may note that the Preamble to Canada’s Constitution Act, passed in 1982, states that “Canada is founded upon principles that recognize the supremacy of God and the rule of law.”

The Christian Democratic parties of Europe and Latin American claim both religious inspiration and political aspiration. The Centrist Democrat International, formerly long known as the Christian Democrat International, is the largest grouping of political parties in the world, with 94 member parties from 73 countries. Its most influential member is probably the German Christian Democratic Union, currently headed by Angela Merkel. The CDI’s European division is the European People’s Party (EPP), currently the largest political party in the European Parliament. With the early influence of the “Vatican triumvirate” of Alcide De Gasperi, Robert Schuman, and Konrad Adenauer, there is a strong case to be made that the European Union is a child of an explicitly Christian Democratic ethos (Audisio and Chiara 2004).

Religion nearly always affects politics. Usually not by efforts to create some imagined “theocracy,” a goal usually not of its proponents but an implied slur of its critics, but by the innate religious task of shaping hearts and minds, hopes and dreams, and also often by forming members in the habits and practices of deliberation, compromise, and association. Our ultimate beliefs influence our views of history, justice, law, mercy, power, human nature, and evil. Additionally, of course, it is impossible to approach politics in a way totally divorced from our views of history, justice, law, mercy, power, human nature, and evil. Indeed, some have argued that it is necessarily religious to argue that human beings have rights (Perry 1998, pp. 11–42; Perry 2007; Witte and Alexander 2008).

Asserting that human beliefs, principles, commitments, lives, goals, or acts, must be either religious or economic, religious or humanitarian, religious or social, religious or political, religious or aesthetic, betrays the ignorance of or suppression of history and of what, empirically, religions are. Religions do not live in a corner, in a private realm, confined to a Sunday or Sabbath, to be enacted only at Yom Kippur or Ramadan. They have and do pervade and shape human life in its entirety. They are, for good and evil, at the core of human life.

7. Religious and Religiously Shaped Organizations

Current disputes about the religious freedom of institutions usually do not focus on churches or synagogues per se but on organizations that serve in the wider community—including what are often called “faith-based organizations.” As Stanley Carlson-Thies notes: “As religious groups and governments both seek to solve the same social problems (and often work together to do so) and the nation’s moral diversity deepens, conflicts have proliferated and become more bitter. Indeed, it is when religious groups are both inward-looking and outward-looking that our most intractable divisions over institutional religious freedom arise” (Personal Communication 2016).¹⁹ Some religious institutions, such as magazines, newspapers, radio and television stations, and publishers have, so far, not been especially legally contentious.²⁰ The disputes arise primarily concerning organizations that serve people who are not necessarily part of the sponsoring religious group.²¹ For example, universities that have a religious mission may, and usually do, welcome and educate and serve students who do not share their religious identity. The same is typically true for religious schools, hospitals, welfare agencies, homeless shelters, and adoption agencies among others. A major case concerning Catholic adoption agencies, *Sharonell Fulton et al., v. City of Philadelphia*, is currently before the U.S. supreme Court.

While religious institutions may be properly required to serve everyone entitled to service, regardless of their religion, contention has arisen as to whether these institutions may insist that their staff, or certain members of it, must uphold the religious mission and beliefs of the organization. Can they insist on the adherence of their staff, faculty, and perhaps students and others who they serve to codes of conduct that proceed from their religious mission?²² American courts have usually held that they can. The U.S. Supreme Court’s *Hosanna-Tabor v. EEOC* (2012), holding that a Lutheran church school could fire one of its teachers for violating the school’s code was unanimous. The same court’s decision in *Our Lady of Guadalupe School v. Morrissey-Berru* (2020) was 7-2 in the school’s favor. There are also disputes as to whether, say, a Catholic adoption agency can restrict adoptions to couples that are married according to the teaching of the church. Similar contentious issues have emerged with respect to religiously oriented hospitals and social service organizations, where the effect on third parties comes to the fore (Berg 2015).

In considering institutional religious freedom, one of the most contentious matters concerns religious freedom and some commercial organizations, such as Hobby Lobby or Chick-fil-A, have been in the news and in the courts (Marshall 2019). However, these are only the tip of the iceberg and can be misleading examples since, as I will discuss below, they are not typical of most religious businesses. Additionally, similar to many businesses with a religious dimension, they usually do not claim to be religious institutions per se, and usually do not have religious criteria in hiring. What they claim is that there

are certain religious principles that guide corporate conduct. The key question is whether they can have religious aspects and religious freedom even though they are also for-profit corporations competing in the market. In *Burwell v. Hobby Lobby Stores*, the Supreme Court held that “closely held” for-profit corporations could be considered as “persons” under the Religious Freedom Restoration Act and thus could properly have religious freedom claims. It did not address the matter of less closely held corporations.²³

Some have held that the decision was novel, and Justice Ginsburg called it “startling” and “radical.” However, Steven D. Smith argues that, since the Supreme Court has held for a century and a half that the term “persons” normally includes corporations, then the decision was in fact blandly “sensible” and “yawningly unadventurous” (Smith 2020). What is often called the “dictionary act,” setting out definitions at the beginning of the US Code, states that “In determining the meaning of any Act of Congress, unless the context indicates otherwise—the words “person” and “whoever” include corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals . . .” Colombo (2014, pp. 159, 153–55) argues that “it would seem incongruous to recognize a corporate right to speech but not to religion.” If a corporation, such as the *New York Times* Company, can have free speech rights then it seems that a corporation could rightfully claim other First Amendment rights.

As Monsma and Carlson-Thies point out, “the nonprofit vs for-profit distinction is less a real distinction than is commonly assumed. It is one made by the Internal Revenue Service to determine an organization’s tax status. It does not rest on a fundamental difference in the nature of entities.” The brief filed by Hobby Lobby before the Supreme Court states “The government agrees that a Jewish *individual* could exercise religion while operating a kosher butcher shop as a sole proprietor. Presumably, he could continue to exercise religion if he formed a general partnership with his brother. But the government says the ability of this religiously observant butcher to exercise his faith abruptly ends . . . at the moment of incorporation, even though he engages in the exact same activities as before” (Monsma and Carlson-Thies 2015, pp. 61–63).

Many of the more general objections to the decision appear to stem from a belief that religion is, or should be, irrelevant to how corporations function. Elizabeth Sepper asked “How can a business have beliefs, religious or otherwise? What does it mean for a business to hold a faith? How can a corporation exercise religion? How does it show sincerity? Can a single-minded obsession to maximize profits meld with religious devotion?” (Sepper 2014). However, many corporations have other goals than solely the maximization of profits, let alone the “single-minded obsession to maximize profits,” and religion can be central to how corporations are structured and go about their business. As Colombo (2014, p. 58) points out, the American Law Institute, in its “Principles of Corporate Governance,” specifically advises that corporations are not entirely beholden to profit maximization.

8. Religious For-Profit Institutions

One key factor in discerning whether an institution, even a for-profit corporation, is religious is whether it does things that are shaped by a religious commitment. Does it do (some) things differently from other corporations that do not claim any religious inspiration? The fact that a corporation might also want to make a profit so that it can continue to exist does not mean that it does not at the same time also do a range of other things. Many profit-making bodies also commit themselves to supporting goals, such as environmental stewardship, combatting climate change, as well as supporting charities, that might adversely affect their bottom line (Adhar 2016).

Guilds in ages past recognized and nurtured the spiritual aspects of their members’ lives. There was no sharp distinction between a religious body and an economic one and they could properly be described by terms such as profession, calling, or vocation, words that still have a normative echo emphasizing that their practitioners do far more than money-grubbing. We can ask similar questions about a university, or hospital, or welfare organization, or a law firm, or even a for-profit corporation. Does it see itself as having

a calling, a vocation, a mission?²⁴ Does the entity's religious vocation affect the way it operates? Is it different from a purely commercial business?

For example, Chick-fil-A closes on Sunday, in America one of the more profitable days of the week for restaurants. This potential sacrifice of profits indicates that its owners see the company not merely as a profit-oriented entity but as a calling, a means of service, a corporate way of obeying God. In 2000, Chick-fil-A's founder Truett Cathy and his brother presented a covenant to their sons that included promises never to open on Sunday, that the company would stay private, and that it would support philanthropic work. It promised "We will be faithful to Christ's lordship in our lives. As committed Christians we will live a life of selfless devotion to His calling in our lives We will prayerfully seek His leadership in all major decisions that impact our family and others. Our family roles as spouses to our lifelong mates, parents to our children, and loving aunts and uncles will be our priority" (Taylor 2019). This is not merely theological window-dressing but, as with any genuinely religious organization, helps shape the way it does business (Bronner 2013).

Similarly, Hobby Lobby closes their stores on Sundays, reportedly starts staff meetings with Bible readings, pays above minimum wage, and uses a Christian-based mediation practice to resolve employee disputes.

Lest it be thought that such corporate religion is merely the province of conservative Christians in America's culture wars, there are many other examples. Don Larson, the founder and CEO of the Sunshine Nut Company left his senior corporate position with Hershey when he believed God was calling him to "Go and build food factories in developing nations to bring lasting economic transformation." He and his family sold everything they had and, in 2011, moved to Mozambique. They started a food factory hiring primarily adult orphans, developed relationships with orphanages and other community organizations throughout Mozambique, and supported and developed projects using 90% of their profits. In 2014, they were able to start supplying U.S. retailers such as Wegmans and Whole Foods and now have an all-African staff of 30 (Marshall 2020b).²⁵

This could be described both as a business and as mission work.²⁶ Indeed there is a major trend in missions to develop businesses to support local communities so that they can be self-sufficient and not need aid.²⁷ Being a missionary and developing an economic enterprise can be virtually identical activities, depending on the purpose.

The large supermarket chain Wegmans seeks to reflect Catholic social teachings on solidarity, subsidiarity, the dignity of the human person, and the care of the common good, and in doing so has, according to *Fortune*, become the second-best place to work in America. Following similar principles, Nucor Steel, the second largest steel company in the U.S., makes compensation for both the CEO and employees to rise or fall together depending on the company's success. In the similarly Catholic-oriented The Wine Group, the second-biggest wine company in the U.S., senior executives are only rewarded with stock bonuses for their work 20 years down the road, so that planning for the company is based on a "20-year time horizon." (Marshall 2020b) William Bowman, Dean of the Catholic University of America's Busch School of Business, maintains that simply using "strict metrics for return on investment" is "itself is a minor violation of Catholic social teaching, because the person is the purpose of the business, and not the dollar, and that has to be reflected in how the company operates . . ." (Smith 2017b).

In *Centesimus Annus*, Pope John Paul II argues that the Catholic Church teaches that "profitability is not the only indicator of a firm's condition . . . In fact, the purpose of a business firm is not simply to make a profit but is to be found in its very existence as a *community of persons* who in various ways are endeavoring to satisfy their basic needs, and who form a particular group at the service of the whole of society. Profit is a regulator of the life of a business, but it is not the only one; *other human and moral factors* must also be considered which, in the long term, are at least equally important for the life of a business."²⁸

Further afield, Forward Sports is a company based in Sialkot, Punjab, Pakistan, that manufactures excellent sports equipment. It has been the official provider of balls for the last two FIFA world cups, produces about 70% of the global output of hand-stitched

soccer balls, and also supplies an amazing estimated 40% of the total world soccer ball market. Its owners are modest about their Islamic faith, but they are pious Muslims and that necessarily shapes their business. The company has a commitment to honesty, going green, providing good benefits to its employees, and helping them develop. It is the only company in its area that also employs women. Its Community Initiative program includes interest-free loans for employees, food for employees during Ramadan, support for the poor and widows, running its own free school, providing funds to the Chamber of Commerce for its Child Labor Elimination Program, providing health care, medicines and electric appliances for prisoners of the Central Jail Sialkot. They are also committed to the study of Islam, notably Islamic finance and business, and sponsor the Seerah (Sira) Study Center at the Government College Women University Sialkot (sic) (Marshall 2020b).²⁹

Whole Food's Buddhist ethos can reveal itself in commitments to "Be a Servant Leader. Our leaders care about others. We are not driven by our ego's desire for self-aggrandizement. Instead, we always try to serve the higher purpose of the company, as well as serving all of our major stakeholders . . ." (Hamer 2018).

On a smaller scale, down the road from me is Whiffletree Farm. Its owners and operators, Jesse and Liz Straight, are converts to Catholicism and have been strongly influenced by Wendell Berry, and from both have made a commitment to a life centered on family, the community and "rootedness." They had never farmed but Jesse says "We came into the Church at the Easter Vigil of 2009 . . . That next Monday we moved back to Warrenton to start the farm." Later, their friend Jonathan Elliott joined the team after graduating with a Master's degree in theology from the Dominican House of Studies in Washington. The farm is committed to organic, sustainable and humane practice. "In terms of the farm . . . it is understanding as much as we can about God's world, how God made the natural system and how we can work within that. In a posture of humility and gratitude and attentiveness, we want to follow God's order, rather than imposing our own" (Greeley 2017).

To be sure there are many other farmers committed to similar practices, sometimes without an explicit religious commitment, though many have a deep environmental quasi-religious disposition, but the Straight's practices are driven by their religious commitment. They are also, at the same time, real business practices. They have a summer intern program at no cost for aspiring farmers to learn sustainable farming practices as well as the skills to run farming basics. "Plus, our program is distinct in that we have weekly business meetings where we teach the interns on how to actually run this kind of business, not just raise the food!" It is a business—a thoroughly religious business.

These examples and many others illustrate that, even for-profit corporations can have religious duties and embody religious convictions.³⁰ Because of this, for-profit entities deserve religious freedom protections along with their non-profit, NGO, and congregational counterparts.

Of course, all these enterprises, whether non-profit or for-profit, fail at fully following through on their religious commitments, at times strikingly so. Many are compromised and divided, and some are hypocritical. However, if, say, a Christian enterprise fails in many ways, it does not mean that it is not a Christian institution. It simply means that it is a religious institution that fails to live up to all its professed commitments. Similarly, the fact that many individual believers are also compromised, divided, and hypocritical does not mean that they are not real, albeit failing, believers who deserve religious freedom protections. I would expect this of institutions, just as I do of individuals, and would be surprised and inspired by any that did not so fail. Such exceptional individuals could be candidates for sainthood, and perhaps some institutions could be for corporate sainthood, if such could exist. However, they would probably have to settle for better business awards.

Additionally, obviously, not all claims of institutional religious freedom should be granted, any more than should all individual claims for religious freedom, or indeed individual claims for any other rights. There will be hard cases and tradeoffs with competing

individual claims to non-discrimination. I wish here simply to argue that institutional religious freedom claims can be valid and important.

9. Why Defend Institutional Religious Freedom?

There are at least four reasons for recognizing the importance and validity of institutional religious freedom. A major one is the vast amount of good work that such institutions do. As Lester Salamon has observed, “Religious institutions are near the epicenter of American philanthropy: they absorb well over half of all private charitable contributions, and account for a disproportionate share of the private voluntary effort . . . No account of the United States nonprofit sector would therefore be complete without some attention to the religious institutions the sector also contains” (Monsma and Carlson-Thies 2015, p. 8).

Earlier I gave the example of some Catholic organizations and World Vision. Since much of this good work is well described by other researchers in this project, I will here give only two examples (Pellowe 2020; Buckingham 2020).

The average cost of an education at a Coalition of Christian Colleges and Universities (CCCU) institution is almost USD 10,000 lower than the price of the average four-year, private, nonprofit college; the loan default rate for CCCU students is nearly half the national average, and they have the highest loan repayment rates (Ooms 2020; Cheng and Sikkink 2020; CCCU 2017).

Here is a listing of some Catholic educational and humanitarian activities in 2018 (Zenit 2018):

Catholic schools and Education

In the field of education, the Catholic Church runs 72,826 kindergartens with 7313,370 pupils; 96,573 primary schools with 35,125,124 pupils; 47,862 secondary schools with 19,956,347 pupils. The Church also cares for 2,509,457 high school pupils, and 3,049,548 university students.

Catholic charity and healthcare centers

Charity and healthcare centers run in the world by the Church include: 5287 hospitals, most of them in America (1530) and Africa (1321); 15,937 dispensaries, mainly in Africa (5177); America (4430) and Asia (3300); 610 Care Homes for people with leprosy, mainly in Asia (352) and Africa (192); 15,722 Homes for the elderly, or the chronically ill or people with a disability, mainly in Europe (8127) and America (3763); 9,552 orphanages, mainly in Asia (3660); 11,758 creches, mainly in Asia (3295) and America (3191); 13,897 marriage counselling centers, mainly in Europe (5664) and America (4984); 3,506 social rehabilitation centers and 35,746 other kinds of institutions. (Grim 2019).

A second reason is the good of the people within the organizations themselves. Raz (1986, p. 208) defended the idea of group rights because individuals have an interest in being part of groups and institutions: “They are a way of referring to individual interests which arise out of the individuals’ membership in communities” (Colombo 2014, p. 57). Similar points were made by Justice Alito in his majority opinion in *Burwell v. Hobby Lobby*: “A corporation is simply a form of organization used by human beings to achieve desired ends . . . [Thus,] protecting the free-exercise rights of corporations like Hobby Lobby . . . protects the religious liberty of the humans who own and control those companies.” (*Burwell v. Hobby Lobby* 2014)³¹, Raz and Alito perhaps go too far in reducing institutional interests to individual ones, but certainly many of the people who benefit from institutional religious freedom are the people within the organizations—their members, workers, shareholders, funders, supporters. Additionally, while the institution itself may have rights and freedoms, it is not the institution itself that feels happy or sad, empowered or distraught—it is its living members and supporters who do so, and they are the ones who will suffer if the organization is denied its religious freedom. The crushing of a religious institution is the crushing of many of the lives of the people who are within it. The denial of proper freedom to a religious institution is the denial of the dignity of those within it.

A third reason is that it helps maintain a network of robust, varied institutions that are essential to the wider aim of maintaining a healthy civil society. As noted above, Lester

Salamon notes: “account for a disproportionate share of the private voluntary effort . . .” (Monsma and Carlson-Thies 2015, p. 8). Apart from the economic and humanitarian benefits noted above, they provide myriad opportunities for many kinds of civic participation and pursuit of social purposes that would not exist if most activities were simply state-administered ones. They can help keep society varied and alive and undercut pervasive social alienation.

Important as these reasons are, I will here give more attention to a fourth reason, which concerns the nature of these institutions (Schwartzman et al. 2016, pp. xiii–xxv). As noted above, “Religion is an interconnected set of beliefs and practices through which people answer the grand questions of life by seeking to live in relationship to the ultimate power or powers that grounds reality and is present to them in the real circumstances of their lives.” In religion people are seeking to order their life to what they believe to be true and good—in this sense people are religious beings and religion is part of human flourishing. One of the arguments for individual religious freedom is that to deny it necessarily denies a key aspect of a person’s humanity and dignity (Shah and Friedman 2018). Robert Wilken’s (Wilken 2019, p. 1) work describing the Christian origins of Western religious liberty is that “Religious freedom rests on a simple truth: religious faith is an inward disposition of the mind and heart and for that reason cannot be coerced by external force.”

Denying religious freedom denies what lies at a person’s heart, tries to make them what they are not, and it denies them the ability to live out what they are (Trigg 2012). It also often asks them to do something impossible, since our beliefs are usually not subject to our will—we cannot suddenly decide by an act of the will to believe something, instead we discover, sometimes slowly, that we do or do not believe something. Religious freedom has an intrinsic quality: it is what Finnis (2011, pp. 89–90) calls a “basic human good” (Smith 2017a, pp. 204–6).

Similarly, denying religious freedom to a religious institution denies its nature as a religious institution. It subverts it and how it goes about its work, its religious mission. Religious institutions are tied to a purpose, a calling, a vocation. If that calling is denied or subverted, the institution loses its *raison d’être*.³² As Cécile Laborde notes, “A religious association that is unable to insist on adherence to its own religious tenets as a condition of membership is unable to be a religious association” (Laborde 2017, p. 179).

To understand these missions and vocations, we need to consider the nature, purpose, and relations between particular institutions.

10. Distinction Not Separation

Particularly in the United States, those who object to almost any government restriction on religious institutions often maintain that they assert the power of the state over churches and other religious bodies, and are, therefore, both normatively wrong and, in America, violate the First Amendment. However, across the world, religious bodies and states are nearly always intertwined, otherwise we would not have many court cases about their relationships and respective authority. In the U.S., for example, despite the courts moving away from the term, people still often use Jefferson’s famous extra-constitutional metaphor of “the separation of church and state” as shorthand to refer to the religion clauses in the First Amendment and to a normative view of government and religion generally. In this sense, it is usually a simple, if naïve, restatement of the respective different authorities of these bodies, properly called the “doctrine of the two” by O’Donovan (1996, p. 214), ultimately reflecting Pope Gelasius’ description of the two swords in his 494 A.D. letter to the Emperor Anastasius:

“There are two powers, august Emperor, by which this world is chiefly ruled, namely, the sacred authority of the priests and the royal power . . . If the ministers of religion, recognizing the supremacy granted you from heaven in matters affecting the public order, obey your laws, lest otherwise they might obstruct the course of secular affairs by irrelevant considerations, with what readiness should

you not yield them obedience to whom is assigned the dispensing of the sacred mysteries of religion.”³³

However, sometimes the word “separation” is used not merely as shorthand for the First Amendment and instead is taken in a quasi-literal sense to mean that the state and religious institutions are or can actually be somehow separated, sealed off from one another. During the COVID-19 pandemic, churches resisting government orders to ban or restrict in-person worship have, placing stress on church authority, offered arguments that appear similar to the separationist views of several secular bodies.

In July 2020, John MacArthur, an influential conservative pastor, who had earlier followed government guidelines on church opening, said that his Grace Community Church would, henceforth, remain open. MacArthur argued that, *inter alia*, “while civil government is invested with divine authority to rule the state,” no biblical texts grant “civic rulers jurisdiction over the church.” He added “Christ, not Caesar, is head of the church. Conversely, the church does not in any sense rule the state. Again, these are distinct kingdoms . . .” He also stated that “God has not granted civic rulers authority over the doctrine, practice, or polity of the church. The biblical framework limits the authority of each institution to its specific jurisdiction . . . government officials have no right to interfere in ecclesiastical matters in a way that undermines or disregards the God-given authority of pastors and elders” (MacArthur 2020; Peaceably Gather 2020; Weckesser 2020). MacArthur alludes particularly to authority over the “doctrine, practice, or polity” of the church, which might nuance its position. However, Tim Thompson, the founding pastor of 412 Church Murrieta in Riverside County in Southern California, which also resisted government restrictions, stated that “This has everything to do with understanding that we live in a democratic republic, and there is a concept of the separation of church and state.” “And it’s weird, because when the church tries to interact with the government in any way, everybody is quick to throw separation of church and state in the face of the church . . . But when the state tries to interfere with the church, nobody’s quick to throw it in their face” (DeSoto 2020). In general, these appeals are framed not on constitutional, legal, or prudential grounds but in universal terms of separation of church and state (Littlejohn 2020; Inazu 2020).

On the legal front itself, by the 1970s, the U.S. Supreme court had found that attempts to use a “wall of separation” lead to a “blurred, indistinct and variable barrier depending on the circumstances of a particular relationship” and that “There is no exact science in gauging the entanglement of church and state” (Roemer v. Maryland Public Works Bd 1976).³⁴

This reflects the fact that church and state are not two atoms that never touch, akin to Leibniz’ windowless monads: they interact with each other according to their own mission and jurisdiction. As Gelasius argued, the emperor has supremacy in temporal matters, which members of the church should follow, and the church has authority in the “sacred mysteries of religion,” which the emperor should follow. He even refers to them as “two trained and specially qualified professions” (O’Donovan 1996, p. 203). They are not sealed hermetic realms, but may have limited, circumscribed authority over the same things (O’Donovan 1996, pp. 167, 203).

Hence, a government might legitimately close buildings, including church buildings, if a fire marshal properly pronounces the structure unsafe. Even in actually constructing church buildings, churches must and do willingly follow government fire and building codes. They accept proper government restrictions on the nature of their sanctuary. Churches, synagogues, mosques and other religious institutions are affected by zoning, parking, traffic, noise, and health regulations. This can go further, as Brad Littlejohn (Littlejohn 2020) notes, “The magistrate cannot ban a minister from preaching the Gospel; but if the minister commits a crime, he may certainly be detained and imprisoned, which may mean that a particular congregation has to go without a preacher for a time. Indeed, he might even be detained and imprisoned for something he says in his preaching, if he was inciting a riot or speaking treason . . .”

In turn, churches have criticized and denied communion to politicians who they believe are violating church teachings in the laws they make or enforce, and it is not, so far, in legal dispute that a church can decide for itself who may receive communion. This is a type of authority over politicians: not the power of the sword but a discipline over the sacraments. Our secular age may regard this as minor opprobrium, but sincerely believing politicians, and also some others with their eyes on the polls, may take it more seriously. It is the power not of the sword but of the word and sacrament.

These instances illustrate that church and state are not hermetically sealed bodies but may have authority according to their respective missions as long as they do not seek to usurp the proper role of the other. The church's authority is a doctrinal or moral one, it should not try to take over governmental power or use physical coercion or impose financial burdens, such as taxes, on non-members.³⁵ A government may use coercion, but it should not try to dictate a church's doctrine or mission. This is an illustration of what Stepan (2000) called the "twin tolerations," "the minimal boundaries of freedom of action that must somehow be crafted for political institutions vis-à-vis religious authorities, and for religious individuals and groups vis-à-vis political institutions."

Of course, these examples concern a situation conceptually simplified as if there were only two relevant actors, when in fact there were more—a situation greatly intensified in the modern world wherein there are multiple differentiated relations of authority. These also arise in many contexts that are not particularly religious. For example, a professor has an academic authority over a student. She can authoritatively set standards for the required curriculum and grade students' work. One of those students may have a different authority over the professor: if the student were a policeman doing night classes and the professor was speeding then he could issue her a summons, regardless of the fact that in an educational setting she is a professor who can grade or even fail him. Indeed, even a police officer investigating a teacher for, say, embezzling department funds would, if actually enrolled in her course, need to accept her grading authority. Each has authority over the other but only in a particular and focused way, depending on the type of activity and institutional setting in which they are operating.³⁶

Similarly, an employer could potentially fire employees who are clearly not doing the job for which they were hired. However, such an employer may not hit them, or arrest them, or excommunicate them, or suspend their library privileges.³⁷ Institutions and people can have a particular type of authority over others, and at the same time be subject to the others' authority in a particular way. We are each and all woven into networks of a multitude of particularized authorities.

11. Defining Features of Institutions

Clearly, not everything that a religiously defined institution, or non-religiously defined institution, does should be legally defended or protected. Hence, especially given the broad range of institutional authorities and jurisdictions, we need to clarify what it is that that should be legally protected. A range of authors have recently stressed differentiated authority and responsibility in society and come to distinct but parallel analyses (Sheahan 2020).

Michael Walzer in his *Spheres of Justice* elaborates a complex theory of justice and equality by arguing that societal institutions are qualified by the "internal meaning" and "distinct goods" of different spheres of society, such as the market, or education, or kinship, or the church. "We need to respect the internal meaning of these areas and how they shape their structure. Justice is relative to social meanings" (Walzer 1983, p. 312). He adds that we "must recognize in its everyday politics the real autonomy of distributive spheres" and that the First Amendment itself "is a rule of complex equality. It does not distribute grace equally: indeed, it does not distribute it at all . . . [I]t leaves all believers in charge of their own salvation" (Walzer 1983, pp. 317, 245).

Luke Sheahan stresses the necessity of protecting the "functional autonomy" of associations. This requires safeguarding its ability to follow its "central tenets," activities that are essential to the life of the group and its ability to maintain its "functional integrity."

This, in turn, requires that we “take into consideration the tradition of the group” and the way in which its “particular culture may have grown organically from the ends to which the association was established and to which members of the group have consented. “Interference with tradition, the internal norms and ways of being, is an interference with the functional autonomy of the group” (Sheahan 2020, pp. 148–49).

Stephen Smith stresses a “jurisdictional” approach to institutional rights, something analogous to the idea of sphere sovereignty, which I will discuss below. He admits that proponents of “church autonomy (including myself) have sometimes been less than clear about what exactly they are advocating.” He also occasionally uses the language of “spheres” (Smith 2016, p. 21). His focus is on protecting “central Church concerns” which he avers can be very different from organizations that are professedly not religious (Smith 2016, p. 36). “An HMO or a country club can admit, say, Hindus or atheists without in any way altering its essential mission: a Christian church that admits Hindus and atheists as full members and officers will be compromising its character as a *Christian* church” (Smith 2014, p. 161).

Cécile Laborde has similar concerns in her development of what she calls ‘minimal secularism.’ She emphasizes that the general category of religion must be ‘disaggregated’ in its multiple dimensions and, in seeking to determine what religious institutions and religious practices should be protected. She asks: “which particular interests, value and relationships are promoted by religious groups, such that they can be granted *special* rights of exemption from anti-discrimination laws” (Laborde 2017, p. 173).³⁸ She holds that the groups must be *voluntary*, i.e., people can leave without undue cost, and they must be *identificatory*: “they are groups that individuals join to pursue a conception of the good that is central to their identity and integrity” (Laborde 2017, p. 174). These groups also have a “coherence interest” to live by “their expressed standards, purposes, and commitments” (Laborde 2017, p. 178). They may also have “competence interests,” which include a “special expertise in the interpretation and application of those standards, purposes, and commitments,” that cannot properly be exercised by the state (Laborde 2017, p. 191).

Horwitz (2013) describes what he calls “First Amendment Institutions, such as universities, schools, newspapers, churches, libraries and so forth” which provide the actual context in which most First Amendment related activities take place. He argues that, because of these contexts, it is difficult and inadvisable to try to have one rule or law that fits them all. The result of trying to do so is that “Again and again, courts abandon, or carve out exceptions to, the context insensitive rules that they assert are the very foundations of the rule of law, and certainly of the First Amendment” (Horwitz 2013, p. 7). This leads to incoherence in the legal doctrine, which is leading to the growing attention to institutional context that is growing in jurisprudential circles.

Horwitz’ focus is on organizations, which are “groups of individuals bound together by some common purpose to achieve certain objectives” (Horwitz 2013, p. 11). He does not discuss specifically religious institutions at length and his primary focus is on free speech issues. However, these can overlap with and can be analogous to religious freedom issues: if institutions can have free speech rights, why cannot they have religious freedom rights?

First Amendment Institutions are “stable and established” and “self-regulating.” Their actions and policies are influenced by norms and practices that have been deeply woven into each institution during its long history” (Horwitz 2013, p. 15). This means that a proper judicial stance toward them should recognize their “institutional autonomy and give them judicial deference” (Horwitz 2013, p. 18). Horwitz believes that there is “a strong case for treating religious entities as First Amendment Institutions and granting them a significant degree of legal autonomy,” though not any claim to absolute autonomy. He even, like Walzer, describes them as “spheres”—“a sovereign realm that operates alongside the state and with which the state is substantially forbidden to interfere” (Horwitz 2013, p. 175).

This leads Horwitz to a discussion of Abraham Kuyper, who was, *inter multa alia*, Prime Minister of the Netherlands in the first decade of the twentieth century. This reference introduces an insufficiently known Protestant stream in modern pluralist thought that

has developed useful distinctions and concepts that can help clarify institutional religious freedom issues regardless of one's religious views. It is worth outlining at a little more length, though I shall relegate more technical aspects to the notes.

Referring to European as distinct from English-speaking thought, Frederick Carney maintains that the "common character of all associations in Calvinist political literature . . . is neither individualist nor absolutist . . . Rather it asks what the vocation (or purpose) of any association is, and how can this association be so organized as to accomplish this essential business. Authority (or rule) becomes a function of vocation" (Carney 1966, p. 53).³⁹ Max Weber also used the notion of the vocation of spheres in society that are shaped by the pursuit of a particular good (Weber 1946, pp. 77–156). In line with this, Kuyper propounded a doctrine of "sphere sovereignty" that maintained that different social entities had their own type of sovereignty that the state is bound to respect, though it must adjudicate disputes between the different spheres, and correct oppression within them.⁴⁰ Horwitz notes the similarities between Kuyper's views and the "institutional turn in the First Amendment" (Horwitz 2013, p. 179).

12. Differentiated Responsibility

Kuyper emphasized an idea of sphere sovereignty but, as David Koyzis notes, he expounded the notion intuitively and did not really give it any "systematic theoretical justification" (Koyzis 2019, p. 238).⁴¹ The term "sphere sovereignty" is also an unfortunate one, in that "sovereignty" might imply that institutions are somewhat like the state, while "sphere" suggests the image of something sealed off from others, reminiscent of a stress on separation in some American First Amendment jurisprudence. A better term, suggested by Jonathan Chaplin and others, is "differentiated responsibility." Similar to church and state, these spheres are not atoms that never touch: they interact with each other according to their own mission and jurisdiction. This idea was subsequently developed at great length by Dutch legal philosopher Herman Dooyeweerd.⁴² His work is complex with many neologisms, so I will here draw on Chaplin's excellent synopsis, adaption and criticism (Chaplin 2011).⁴³

Dooyeweerd uses the term "sphere sovereignty" in several senses and the most basic one refers to irreducible aspects of reality.⁴⁴ Here, there are some parallels with Oakeshott (1933) "modes of experience" or John Finnis' notion of "basic human goods." For example, he distinguished the aspect of faith from the ethical, something close to what Luther had in mind when he said we are saved by faith not works. The ethical can be distinguished from the juridical in that public law can secure justice but not love or friendship, or it can require employers to pay a minimum wage or mandate other working conditions, but not force them to treat workers with dignity.⁴⁵ These aspects are not posited a priori but are to be grounded in our experience and investigated empirically and subsequently refined, dropped, or added to as needed.⁴⁶

Particular institutions or organizations have a distinct relation to one of these aspects and are typified by what he calls their "leading aspect," what we might generally call their "structural purpose."⁴⁷ For the state this is the juridical function—the establishment of justice (or just law). Clearly the state also has economic, aesthetic, social and many other aspects—in fact, any and all societal organizations always necessarily function in all the aspects, which is why an economic or educational enterprise can have a religious side. However, these various aspects are shaped by and led by the leading aspect. For example, the state does not seek to maintain justice in order to carry out economic activities per se but, normatively, it carries out economic activities in order to support its leading function of establishing justice in the public sphere. Similarly, a business will certainly have a juridical side, perhaps legal incorporation, and social and other sides, but these are in the service of its economic aspect. A political party may run a school to train its cadres but does not thereby become an educational institution; its educational function is in the service of its political one. It could drop its educational activities without ceasing to be a political party, whereas a university that dropped its educational activities would cease to be a university.

A university might employ full time political lobbyists, but it does not thereby become a political organization. Associations and organizations have a different character according to their leading aspects. Different associations with different leading aspects function in different ways and should not be reduced to one another.

13. Competence and Jurisdiction

Richard Garnett writes that the reason that courts should avoid adjudicating religious and theological disputes is not per se that they lack the “intellectual competence” but that there is a lack of secular jurisdiction over such questions . . .” (Garnett 2016, p. 49). However, if an organization is shaped by its leading aspect, then these two reasons will be intimately connected. If a state court tries to resolve a theological matter or formulate a correct doctrine it will start to imitate a church or mosque, and to act as a priest or rabbi.⁴⁸ It is taking over an activity that typifies an organization whose leading function is faith and in order to carry out this activity it will necessarily have to do the type of things that churches and similar bodies do, hence it necessarily becomes church-like, a quasi-church. The same would be true if a government sought to take over academic decisions in a university: it would need to function as an academy in making scholarly judgments, hence it takes on an academic role and becomes itself a quasi-academic institution. Similar analyses can be applied to families, social clubs or corporations. Their jurisdiction is intimately tied to their leading function and hence their competence.

Each of these institutions has a particular aspect that shapes how it functions and that has an irreducible quality so that if someone or some other organization wants to do what they do, it will necessarily become like them. Similarly, if a church tried to raise an army or impose its views by physical force then it will be imitating a state and will develop the character of a state, as churches have done. When a company, such as the British East India company, the Vereenigde Oost-Indische, or the Xinjiang Production and Construction Corps have imposed political control on India, Indonesia, or Xinjiang, they have required armies and necessarily became quasi governments wherein the intertwining and confusion of the economic and juridical aspects leads to widespread brutality and exploitation. Their economic drive necessarily subverts justice.

As Burke (1991, p. 283) said: “the India Company became to be what it is, a great Empire carrying on subordinately (under the public authority), a great commerce. It became that thing which was supposed by the Roman Law so unsuitable, the same power was a Trader, the same power was a Lord . . . In fact, [the Company] is a State in Disguise of a Merchant, a great public office in disguise of a Countinghouse . . .” (Murray 2007). Any government can be unjust, and any company can be unjust, but when a company becomes a quasi-government, it cannot be anything other than unjust. There is a mode of activity that typifies particular institutions. If others try to imitate or subvert this, they start to remake themselves in this image and distort and deform their own character.

14. Leading Function and Vocation

These authors I summarized earlier—Walzer, Sheahan, Smith, Laborde, Horwitz and Kuyper—use expressions such as “internal meaning,” “distinct goods,” “functional autonomy,” “central tenets,” “central Church concerns,” “central to their identity and integrity,” “coherence interests,” “bound together by some common purpose,” “norms and practices that have been deeply woven into each institution,” “essential business,” “vocation,” and “sphere sovereignty.” These expressions hint at different things but they all hold that it is the core, defining structure, vocation and mission of an institution that is central to understanding what about it should be free.

However, these terms, with the possible exception of sphere sovereignty, conflate two things, an organization’s *type* and its *mission* or *vocation*. It is important to stress that an *institution’s leading aspect* or “*structural purpose*” and its *mission* are not the same thing. A leading aspect tells us *what type* of institution it is—that, for example, it is an economic not a juridical/political body. However, businesses, while still remaining economically

qualified entities, may have varied goals, missions, vocations. Some economic entities may be driven by the belief that their goal is simply to maximize returns to shareholders. Others, such as the examples of Wegmans and Whiffletree above, seek to shape their economic activities in a particular way that reflects their religious beliefs, but they nevertheless still remain economically qualified organizations. Similarly, states may follow very different policies according to their political beliefs. The governments of Belgium and Bangladesh vary in their structure and policies, but they are recognizably of the government type. The duties and vocation of the Senate and the Supreme court are different, but they are both political/judicial bodies.

In protecting genuine institutional religious freedom, as well as other freedoms, we need to be aware of both of these dimensions. First, if a company tries to take over the mode of activity that typifies a government, as in the example of the East India Company above, then it distorts its own role and that of the other institutions. In turn, governments need to be aware of the different modes of activity of other bodies, such as companies, universities, and churches. An institution first needs to be free to be *the type of* institution it is. Secondly, it also needs freedom to follow its particular religious beliefs, to be able to act according to its own mission. Denying religious freedom to an institution subverts it and how it goes about its work.

The analyses by the authors that I briefly summarize above have significant differences from each other, but there does seem to be a family relationship or, to shift metaphors, they live in the same neighborhood. Between them, they stress something close to both leading aspects and purposes, missions or vocations. Horwitz and especially Walzer argue for something close to leading aspects: the former stresses “norms and practices that have been deeply woven into each institution” while the latter emphasizes how spheres’ “internal meaning” will “shape their structure.”

Sheahan, Smith, and Laborde argue for something closer to a mission or vocation: Sheahan refers to “central tenets” and “functional integrity,” Smith to “central Church concerns,” and Laborde maintains that groups have a “coherence interest” to live by “their expressed standards, purposes, and commitments.” Similarly, in commenting on *Our Lady of Guadalupe School v. Morrissey-Berru* and *St. James School v. Biel*, Garnett (2020) says the court’s inquiry is properly “a functional one. The limits on secular authority are determined not merely by an employee’s title but also, and more importantly, by his role in carrying out the organization’s religious mission. The issue is not what they are called, but what they do.” Justice Alito stressed “core responsibilities” when he wrote in this case “Implicit in the *Hosanna-Tabor* decision was a recognition that educating young people in their faith, inculcating its teachings, and training them to live their faith are responsibilities that lie at the very core of a private religious school’s mission . . . The religious education and formation of students is the very reason for the existence of most private religious schools, and therefore the selection and supervision of the teachers upon whom the schools rely to do this work lie at the core of their mission.” (*Our Lady of Guadalupe Sch. v. Morrissey-Berru* 2020).⁴⁹

Since, both the type and the purpose of an institution need to be recognized in religious freedom, what needs to be protected is the particular practice that typifies the organization. It needs the freedom to be what it is and to live out a religious commitment. If either of these is usurped then the institution ceases to be what it was, if its calling is denied or subverted the institution loses its *raison d’être*. It is hollowed out.⁵⁰

Cécile Laborde suggests that this type of analysis might, in some cases, properly lead to some restrictions on the present scope of powers of religious institutions in the U.S. Chief Justice Roberts wrote in *Hosanna-Tabor* that demanding that a church “accept or retain an unwanted minister, or punishing a church for failing to do so, intrudes on more than a mere employment decision. Such action interferes with the internal governance of the church, depriving the church of control over the selection of those who will personify its beliefs.” Additionally, the “Free Exercise Clause . . . protects a religious group’s right to shape its own faith and mission through its appointments.” The case “concerns government

interference with an internal church decision that affects the faith and mission of the church itself” (*Hosanna-Tabor* at 706) (emphases added).

Laborde (2017, p. 186) suggests that, in understanding the rights of religious institutions, we need to focus not on the organization as if it were a black box, but on the activities and functions that are related to its “core purpose,” its doctrine and mission. Hence, she suggests that a “woman cannot complain of gender discrimination when she is excluded from the clergy by the Catholic church, because the commitment to an all-male clergy is . . . central to Catholic doctrine.” However, in matters not related to its “core purpose” the activities of an institution might be limited. Hence, “a woman could bring a discrimination suit against a liberal protestant church . . . that is committed to gender equality.”

15. Confusions of State and Non-State Norms and Conduct

One reason that many people are suspicious of religious institutions making distinctions about their purposes, work and personnel based on their beliefs is that they suppose that persons and non-governmental institutions ought usually to be subject to the same rules as the government itself. Societal institutions come to be considered as governments writ small and subject to the same rules. As Rivers (2010, p. 36; 2019) notes, “transforming religious individuals and associations from the subjects to the objects of human rights standards carries with it an enormous risk to existing standards of liberty and non-discrimination. Human rights were primarily designed as an ethic for Governments, to protect (among others) religious individuals and groups from their excesses.” In this vein, Nancy L. Rosenblum critiques what she calls a ‘logic of congruence’ in which non-state associations are made subservient to the purpose of a liberal state. “[I]n its capacity as sovereign, government attempts to enforce conformity with public principles should stop far short of the censorious position that looks on associations, including religious groups, as private boot camps for citizenship. This stern pedagogical perspective dictates that the internal lives of associations be made to conform to public norms” (Rosenblum 2000, pp. 187–88).

This leads to what Movsesian (2019, p. 714) calls “equality as sameness.” This has been a major problem in Canada where the Supreme Court has begun insisting that private associations must abide by “Charter Values,” that is the “values” purportedly contained in the 1982 Canadian Charter of Rights and Freedoms (Marshall 2020c).⁵¹ Here, a legal bill of rights has been transmogrified into a set of “values,” whose legal and other nature is obscure, and which are then applied to non-governmental institutions.⁵² Hence, in this view, if the government is believed, correctly, to be forbidden to discriminate on the basis of religious beliefs, then the corollary is thought to be that other institutions in society should not be able to do so either, especially if they receive government funding or relief from taxes. However, as Inazu (2016, p. 127) writes, “government should not be permitted to demand its own orthodoxy as a condition to obtain generally available benefits.”

Jonathan Chaplin asks the pertinent question, “how far must the public realm itself mandate uniformity of practice . . . ? If the notion of a thickly plural public realm became the default setting (with all appropriate caveats), then an important shift in the *burden of justification* takes place . . .” He suggests we might go “from seeing the state as the pre-emptive legislator imposing uniformity . . . but then conceding (or not) minority supplication for ‘exemption,’” to asking “how state legislation can intentionally harness the strength of plural minorities *from the start*, with the state being required to justify uniformity where necessary (often it could)” (emphases in original) (Chaplin 2018, p. 291). This would also seem more in line with American constitutional principles that stress government’s role in protecting pre-existing freedom.

One of the reasons for forbidding government discrimination on matters such as religion is precisely so that private institutions, and not only religious ones, will be able to appropriately employ staff and carry out policies according to their own particular beliefs as to what supports their distinctive mission. As Laborde (2017, p. 125) puts it: “the state should be secular so that citizens do not have to be.” Governmental neutrality is intended

to be a foundation for a lively and diverse societal pluralism, not for society to become a mirror of the government itself (McConnell 2020).

Eroding this distinction can lead to a deracination of the meaning of public law and to blurring the distinction between governmental limits and private limits. It would tend to treat societal organizations simply as quasi-government agents and, in a soft authoritarianism, eradicate the diverse and distinctive freedoms that are required in a plural society. Religious workers could become subject to the same rules of governmental bureaucracy. For religious institutions, some secularized organizational shells might still remain littering the social landscape, but they will become the pale reflection of so many other institutions. As religious institutions, they will have died.

In his 73rd Sonnet Shakespeare alluded to Henry VIII's dissolution of the monasteries when they had become inconvenient barriers to his desire to eradicate any ecclesial or other authority contrary to his rule: they had become "Bare ruin'd choirs, where late the sweet birds sang."⁵³

Funding: Work on this paper was made possible by a grant from the John Templeton Foundation to the Religious Freedom Institute for a three-year research project on the Freedom of Religious Institutions in Society.

Acknowledgments: My thanks to many people who have given advice, suggestions and criticisms of drafts of this paper but especially to David Koyzis, Stanley Carlson-Thies, and especially Jonathan Chaplin, who read an earlier draft and who gave much wise counsel and suggestion.

Conflicts of Interest: The author declares no conflict of interest.

Notes

- ¹ For reasons why there is more pressure for institutional religious freedom, see Horwitz and Tebbe (2016) and Smith (2020), pp. 333, 338, 340.
- ² Of course, not all organizations in civil society exist to form human character and civic virtue. Similar individualistic themes have occurred in attempts to import the notion of rights into environmental discussions, where they can be in tension with ecological concerns, see Marshall (1993).
- ³ For background that suggests that this was not as "quite unintentional" as Kissinger thought, see Tierney (1982). See also Garnett (2016), Wolin (2004), and Murray (1960), pp. 197–217.
- ⁴ From the Old French *profession* (12c.), from the Latin *professionem* (nominative *professio*) meaning a "public declaration."
- ⁵ See also Black (2017).
- ⁶ See Marshall (1996). This could also apply to individual tasks: Article 22 of the list of supposed heresies for which Tyndale [1527] (1848, pp. 98, 104), the great English Reformer and father of the English Bible, was convicted, accused him of having said: "There is no work better than another to please God: to pour water, to wash dishes, to be a *souter* (shoemaker) or an apostle, all is one; to wash dishes and to preach is all one, as touching the deed, to please God."
- ⁷ On Xinjiang, see Economist (2020).
- ⁸ When he takes up the question of "internal restrictions," i.e., the rights of a community against its own members, and "external restrictions," i.e., claims of a group against the larger society, Kymlicka thinks liberals should accept certain of the latter, but reject the former.
- ⁹ See, for example, the guidelines for the Canadian Northwest Territories' "Indigenous Languages and Education Secretariat," <https://www.ece.gov.nt.ca/en/services/le-secretariat-de-leducation-et-des-langues-autochtones/langues-overview>.
- ¹⁰ For example, Shapiro and Kymlicka (1997), focus on people with specific, shared characteristics, although Chapter 10 seeks to use examples of organized churches to illuminate less organized groupings.
- ¹¹ Such a grouping could be organized to be involved in a class action.
- ¹² The case of North American and other native tribes can have additional complexities. A tribe that is also an organized political entity may have a tribal police force. Similarly, the Convention on the Prevention and Punishment of the Crime of Genocide also forbids not only actions against individuals within a threatened group but also *against the group itself*. So, for example, the Convention forbids transferring children out of a group, by adoption.
- ¹³ *United States v. Seeger*, 380 U.S. 163 (1965) at 176. In several places, I cite U.S. court decisions, but these citations are meant to illustrate an argument, not to argue that the Court or U.S. law embodies the position for which I am arguing.

- ¹⁴ Philpott (2019, p. 22) original formulation is “an interconnected set of beliefs and practices through which people answer the grand questions of life by seeking to live in harmony with a superhuman power that intervenes in real circumstances in their life. They do this most characteristically through worship.” For the purposes of the *Equality Act* and similar legislation, officials in the United Kingdom have sought to identify which views should qualify as ‘belief,’ as distinct from ‘religion’ per se, for equality law purposes. Such beliefs must “be genuinely held; be a belief and not an opinion or viewpoint based on the present state of information available; be a belief as to a weighty and substantial aspect of human life and behaviour; attain a certain level of cogency, seriousness, cohesion and importance; and be worthy of respect in a democratic society, compatible with human dignity and not conflict with the fundamental rights of others.” See *Equality Act* 2010, <https://www.legislation.gov.uk/ukpga/2010/15/section/10/notes?view=plain>.
- ¹⁵ *Spencer v. World Vision Inc.* United States Court of Appeals, Ninth Circuit. No. 08-35532. 2010. Dissenting opinion of Judge Marsha S. Berzon in *Spencer v. World Vision, Inc.*, 633 F.3d 723 (9th Cir. 2011) 12597, 12599 (italics in original). I am indebted to [Monsma and Carlson-Thies \(2015\)](#) for this and other examples. See pp. 18–19.
- ¹⁶ See [Taylor \(2007\)](#). For an overview of some of the issues, see [Casanova \(2011\)](#), and [Benson \(2004\)](#). This view of the secular is often combined with the opinion that religious adherence in the world is itself shrinking. For strong arguments against this opinion, see [Stark \(2015\)](#). On the Christian roots of secularism, see [Siedentop \(2014\)](#).
- ¹⁷ See [Marshall \(2002\)](#).
- ¹⁸ Martin Luther famously called James “an epistle of straw” because it seemed to suggest that such works were the key to salvation, but he never suggested that such works were not an obligation for a Christian.
- ¹⁹ Stanley Carlson-Thies, Personal communication.
- ²⁰ Though in 1998, the FCC modified its regulations re religious broadcasters and and stated “that it is reasonable to conclude that it is appropriate for all employees of religious broadcasters to share a common commitment to a licensee’s basic religious objective and mission.” *FCC Modifies EEO Enforcement for Religious Broadcasters*, February 25, 2020, https://transition.fcc.gov/Bureaus/Mass_Media/News_Releases/1998/nrmm8005.html.
- ²¹ Of course, religious radio programs and magazines may serve an audience who are not members of the sponsoring religious group, but here the relation seems to be a less intensive one.
- ²² This issue has also arisen regarding staff, such as receptionists in churches, which some secular people have held as not requiring a religious commitment.
- ²³ *Burwell v. Hobby Lobby*, 573 U.S. 682 (2014).
- ²⁴ [Colombo \(2014, pp. 55–84\)](#) refers to “ethical” corporations as “postmodern corporations. See also pp. 204–8, which suggests possible limitations on religious freedom for what he calls “modern,” widely-held corporations. See also his taxonomy of what types of corporations might hold what First Amendment rights (pp. 195–96). <https://sunshinenuts.com/sunshine-approach/our-story/>.
- ²⁵ See the website of Business as Mission <https://businessasmission.com/> and the section on starting businesses on the TEAM mission-supporting agency website, “Five Tips for Starting a Business as Mission” <https://team.org/blog/start-business-as-mission>.
- ²⁶ See ABWE Missions at <https://www.abwe.org/serve/focuses/business-community-development>; the Business as Mission website at <https://businessasmission.com/library/>. See also [Johnson \(2009\)](#).
- ²⁷ *Centesimus Annus* (1991), Section 35, http://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_01051991_centesimus-annus.html.
- ²⁸ <https://www.fgear.pk/community-initiative>; Professor Dicky Sofjan, pers. comm. June 22, 2020. My thanks to Professor Sofjan for pointing out this example.
- ²⁹ For further examples, see ([Christianity Today 2020](#)).
- ³⁰ *Burwell v. Hobby Lobby*, 134 S. Ct. 2751, 2768 (2014).
- ³¹ As [Muñis-Fraticelli \(2014, p. 54\)](#) states, “To put it in crude and oversimplified terms, to be a Roman Catholic involves, at a constitutive level, submission to the Magisterium, the teaching function of the Church carried out by the Pope and the bishops. To deny this authority is not to be a bad Catholic; it is to be a Protestant. Likewise, to deny the binding authority of halakha (and of the battei din who interpret it) and assert the primacy of the individual conscience on matters of Jewish law is not to be a bad Orthodox Jew, but to be a Reform Jew.”
- ³² <https://sourcebooks.fordham.edu/source/gelasius1.asp>.
- ³³ *Lemon v. Kurtzman*—403 U.S. 602, 91 S. Ct. 2105 (1971); *Roemer Et Al. V. Board of Public Works of Maryland Et Al*, 426 U.S. 736 (1976) 96 S. Ct. 2337.
- ³⁴ This might call into questions practices in several European states in which the state collects as church tithe as part of its general tax revenue. In these cases, people may opt out of the tax, but they do need to make the step of opting out, otherwise they are included.

- ³⁶ I am indebted to David T. Koyzis for this example: see [Koyzis \(2019, p. 244\)](#).
- ³⁷ I am also indebted to David T. Koyzis for this example: see [Koyzis \(2019, pp. 247–48\)](#).
- ³⁸ Laborde stresses that religion is not special in that non-religious organizations may have the same rights and freedoms. In her analysis, the freedom stems from freedom of association. This is similar to the “inclusive non-accommodation” view offered by [Schwartzman \(2017, p. 18\)](#). [Jones \(2017, p. 163\)](#) suggests that there might be a religious exemption to a general law, such as allowing Sikhs not to wear motorcycle helmets while riding, because the law puts a burden on the Sikh that it does not put on others. “Rather than privileging the exempted group, they merely correct for its disadvantage.”
- ³⁹ On Althusius, see chp. 4 of [Witte \(2007\)](#).
- ⁴⁰ Kuyper’s view falls in a tradition going back to Johannes Althusius, who was also probably the first person to develop what later became known as the Catholic doctrine of subsidiarity—a view propounded by Jacques Delors when he was head of the European Commission. See [Cahill \(2017\)](#). Althusius is also probably the first person to use the term “political science” (*scientia politica*) and is often called the first federal theorist. See [Carney \(1964, p. 3\)](#). [Friedrich \(1979, p. xv\)](#) referred to him as “the most profound political thinker between Bodin and Hobbes.” See also, [Witte \(2009\)](#).
- ⁴¹ For discussions of Kuyper, see [Bratt \(2013\)](#), [Wolterstorf \(2012\)](#), [Horwitz \(2013, pp. 177–81\)](#), [Chaplin \(2011, pp. 139–44\)](#), and [Koyzis \(2019, pp. 232–39\)](#). See also [Walzer \(1983\)](#). Walzer did not appear to be familiar with Kuyper’s work nor that of his followers. See also [Galston \(2005\)](#) on Calvinism, and [Witte \(2007, chp. 3\)](#).
- ⁴² Additionally, Dooyeweerd stressed not only the differentiated authority of social institutions but also their complex interrelations, which shape their responsibilities. These were developed under the rubric of a theory of “enkapsis” that details the intertwining of different structures. See [Van der Vyver \(1988, pp. 26–27\)](#). Dooyeweerd was described by G. E. Langemeijer, then Chairman of the Dutch Royal Academy, and who did not share his views, as “the most original philosopher that the Netherlands has ever produced, not excluding even Spinoza” *Trouw*, October 6, 1964, quoted in [Chaplin \(2011, p. 25\)](#).
- ⁴³ On Jonathan Chaplin’s own views, see [Chaplin \(2009\)](#). See also, [Dooyeweerd \(1986\)](#) and [Verburg \(2015\)](#). For a shorter overview, see [Koyzis \(2014, pp. 184–97\)](#). I will necessarily oversimplify Dooyeweerd and avoid many of his technical terms that can be obscure but that also give his argument greater analytic bite and precision. Here, what I principally want to do is illustrate a mode of argument about the nature of institutional religious freedom.
- ⁴⁴ As [Chaplin \(2011, p. 139\)](#) notes, “Surprisingly, and to the consternation of students of his social thought, Dooyeweerd nowhere sets forth a detailed statement of the principal of *societal* sphere sovereignty.” (my emphasis). He does, however, articulate its philosophical basis.
- ⁴⁵ This analysis is not confined to social things—he gives similar analyses is given of the numeric, spatial, and physical aspects of things. These aspects and their irreducibility are not posited *a priori*—they are things intended to be investigated empirically.
- ⁴⁶ Dooyeweerd himself changed his number and order of the categories.
- ⁴⁷ The term “structural purpose” is borrowed from [Clouser \(2007\)](#). Dooyeweerd himself also uses the term “qualifying function.”
- ⁴⁸ Cf. [Locke \[1685\] \(1983\)](#): “Neither the Right, nor the Art of Ruling, does necessarily carry along with it the certain Knowledge of other things; and least of all the of the true religion.”
- ⁴⁹ *Our Lady of Guadalupe Sch. v. Morrissey-Berru* 140 S. Ct. 2049 (2020).
- ⁵⁰ The more that this hollowing out happens, the harder it will become to justify its relative autonomy. There is also the phenomenon of self-inflicted hollowing out through internal secularization, either through indifference or perhaps even pre-emptive capitulation to secular expectations This should be distinguished from consciously chosen developments of internal theological belief, such as changed views of gay marriage.
- ⁵¹ See [Marshall \(2018\)](#), and the case, *Law Society of British Columbia v. Trinity Western University and Brayden Volkenant* (2018), No. 37318. Supreme Court of Canada, <https://www.canlii.org/en/ca/scc/doc/2018/2018scc32/2018scc32.html>. For more background, see Barry Bussey’s blog at https://www.cccc.org/news_blogs/author/barry/. See also the comments of Justice Bradley Miller in *McKitty v. Hayani*, (2019), Ontario Court of Appeals, 805. <https://www.ontariocourts.ca/decisions/2019/2019ONCA0805.htm>.
- ⁵² See, for example, in Sweden, the municipal government of the city of Falun (the elected officials of which represent a broad coalition) refused to extend a contract to one of the largest free churches in the region, and advised others to do the same. The Chairman of the City Council, Joakim Storck, said that the congregation’s stand for a traditional Christian view of marriage is “in contradiction to the basic values of the municipality.” See [Rudenstrand and Marshall \(2020\)](#).

⁵³ 73rd Sonnet. The ‘birds’ likely refers not to biological birds but is an allusion to the now silenced voices of the choirs.

References

- Adhar, Rex. 2016. Companies as Religious Liberty Claimants. *Oxford Journal of Law and Religion* 5: 1–27. [CrossRef]
- Audisio, Giuseppe, and Alberto Chiara. 2004. *Les fondateurs de l’Europe unie selon le projet de Jean Monnet: Robert Schuman, Konrad Adenauer, Alcide De Gasperi*. Paris: Salvatore.
- Beckwith, Francis. 2019. Gotta Serve Somebody? Religious Liberty, Freedom of Conscience, and Religion as Comprehensive Doctrine. *Studies in Christian Ethics* 33: 168–78. Available online: <https://journals.sagepub.com/doi/10.1177/0953946819896418> (accessed on 29 March 2021). [CrossRef]
- Benson, Iain. 2004. Considering Secularism. In *Recognising Religion in a Secular Age*. Edited by Douglas Farrow. Montreal and Kingston: McGill-Queen’s University Press, pp. 83–98.
- Berg, Thomas. 2015. Religious Accommodation and the Welfare State. *Harvard Journal of Law & Gender* 38: 104–51.
- Berman, Harold. 1983. *Law and Revolution: The Formation of the Western Legal Tradition*. Cambridge: Harvard University Press, p. 393.
- Black, Anthony. 2017. *Guild and State: European Political Thought from the Twelfth Century to the Present*. London: Routledge.
- Bratt, James. 2013. *Abraham Kuyper: Modern Calvinist, Christian Democrat*. Grand Rapids: Eerdmans.
- Bronner, Ethan. 2013. A Flood of Suits Fights Coverage of Birth Control. *New York Times*, January 27.
- Buckingham, Janet Epp. 2020. Just Check the Box: Why Religious Institutions Still Make Canada a Better Place to Live and Flourish. In *The Status of Religion and the Public Benefit in Charity Law*. Edited by Barry Busey. London: Anthem Press, pp. 205–21.
- Burke, Edmund. 1991. Speech on Opening of Impeachment. In *The Writings and Speeches of Edmund Burke. India: The Launching of the Hastings Impeachment 1786–1788*. Oxford: Clarendon, Volume 6, p. 283.
- Cahill, Maria. 2017. Theorizing Subsidiarity: Towards an Ontology-Sensitive Approach. *International Journal of Constitutional Law* 15: 201–24. [CrossRef]
- Carney, Frederick. 1964. *The Politics of Johannes Althusius*. Boston: Beacon Press, p. 3.
- Carney, Frederick. 1966. Associational Thought in Early Calvinism. In *Voluntary Associations*. Edited by D. R. Robertson. Quoted in Chaplin, Jonathan. 2011. In *Herman Dooyeweerd: Christian Philosopher of State and Civil Society*. Notre Dame: Notre Dame University Press, p. 141.
- Casanova, Jose. 2011. The Secular, Secularizations, Secularisms. In *Rethinking Secularism*. Edited by Craig Calhoun, Mark Juergensmeyer and Jonathan van Antwerpen. New York: Oxford University Press, pp. 54–74.
- Cavanaugh, William. 2009. *The Myth of Religious Violence*. New York: Oxford University Press, p. 3.
- CCCU. 2017. *Building the Common Good: The National Impact of Council For Christian Colleges & Universities (CCCU) Institutions*. Washington: CCCU, Available online: <https://www.cccu.org/wp-content/uploads/2018/01/CCCU-National-Impact-Final-Report-12.12.17.pdf> (accessed on 12 December 2020).
- Chaplin, Jonathan. 2009. Toward a Social Pluralist Theory of Institutional Rights. In *Rethinking Rights: Historical, Political, and Philosophical Perspectives*. Edited by Bruce Frohnen and Kenneth Grasso. Columbia: University of Missouri Press, pp. 212–40.
- Chaplin, Jonathan. 2011. *Herman Dooyeweerd: Christian Philosopher of State and Civil Society*. Notre Dame: Notre Dame University Press.
- Chaplin, Jonathan. 2018. Political Liberalism and Christian Political Theology: A Review of Two Works by Liberals that Can Enhance Prospects for Dialogue. *Studies in Christian Ethics* 31: 281–96. Available online: <https://journals.sagepub.com/doi/full/10.1177/0953946818770402> (accessed on 29 March 2021). [CrossRef]
- Cheng, Albert, and David Sikkink. 2020. What Do They Deliver? A Report on American Colleges and Universities. *Cardus*. February 10. Available online: <https://www.cardus.ca/research/education/reports/what-do-they-deliver/> (accessed on 29 March 2021).
- Christianity Today. 2020. 5 Companies Radically Shaped by the Faith of Their Owners. *Christianity Today*. May/June, pp. 86–93. Available online: <https://www.christianitytoday.com/partners/c12/5-companies-radically-shaped-by-faith-of-their-owners.html> (accessed on 29 March 2021).
- Clouser, Roy. 2007. Norms and the Development of Society. The 2007 Kuyper Lecture. *Public Justice Report* 30. Available online: https://www.cpjustice.org/uploads/The_2007_Kuyper_Lecturer_Roy_Clouser.pdf (accessed on 29 March 2021).
- Colombo, Ronald. 2014. *The First Amendment and the Business Corporation*. New York: Oxford University Press.
- DeSoto, Randy. 2020. CA Megachurches Disregard Newsom’s Closure Order: Will Follow God, Not Man. *Western Journal*. July 21. Available online: <https://www.westernjournal.com/ca-megachurches-disregard-newsoms-closure-order-will-follow-god-not-man/> (accessed on 29 March 2021).
- Dooyeweerd, Herman. 1986. *A Christian Theory of Social Institutions*. Translated by Magnus Verbrugge. La Jolla: Herman Dooyeweerd Foundation.
- Economist. 2020. Forced Labour in China Presents Dilemmas for Fashion Brands. *Economist*. August 22. Available online: <https://www.economist.com/business/2020/08/22/forced-labour-in-china-presents-dilemmas-for-fashion-brands?fbclid=IwAR1I98kaHQ-yw578QyKNE6wcYPRMDqj81xWdMAP7UU9YHPiDclancsxBk> (accessed on 29 March 2021).
- Fautré, Willy. 2008. Belgium. In *Religious Freedom in the World*. Edited by Paul Marshall. Lanham: Rowman and Littlefield, p. 95.
- Finnis, John. 2011. *Natural Law and Natural Rights*, 2nd ed. Oxford: Oxford University Press, pp. 89–90.
- Friedrich, Carl Joachim. 1979. Introductory Remarks. In *Politica Methodice Digesta of Johannes Althusius*. New York: Arno Press, p. xv.
- Frohnen, Bruce, and Kenneth Grasso. 2009. *Rethinking Rights: Historical, Political, and Philosophical Perspectives*. Columbia: University of Missouri Press.

- Galston, William. 2005. *The Practice of Liberal Pluralism*. New York: Cambridge University Press.
- Garnett, Richard. 2016. The Freedom of the Church: (Toward) an Exposition, Translation, and Defense. In *The Rise of Corporate Religious Liberty*. Edited by Micah Schwartzman, Chad Flanders and Zoë Robinson. New York: Oxford University Press.
- Garnett, Richard. 2020. Religious Schools and the Freedom of the Church. *Law and Liberty*. July 10. Available online: https://lawliberty.org/religious-schools-and-the-freedom-of-the-church/?utm_source=LAL+Updates&utm_campaign=00d3050793-LAL_Daily_Updates&utm_medium=email&utm_term=0_53ee3e1605-00d3050793-72558533 (accessed on 29 March 2021).
- Glendon, Mary Ann. 1991. *Rights Talk: The Impoverishment of Political Discourse*. New York: Basic Books, pp. x–xi, 14.
- Gedefroy, Frédéric. 2019. *Dictionnaire de l'ancienne langue française et de tous ses dialectes du IX^e au XV^e siècle*. Forgotten Books. First published 1881.
- Greeley, Alexandra. 2017. Catholic Family Goes Back to Nature: Harvesting God's Good Earth—And Faith. *National Catholic Register*. October 12. Available online: <https://www.ncregister.com/daily-news/catholic-family-goes-back-to-nature-harvesting-gods-good-earth-and-faith> (accessed on 29 March 2021).
- Grim, Brian. 2019. The Earthly Good of Being Heavenly Minded: The Economic Value of US Religion. *University of St. Thomas Law Journal* 15: 607–41. Available online: <https://ir.stthomas.edu/ustlj/vol15/iss3/5/> (accessed on 29 March 2021).
- Hamer, Lauren. 2018. These Companies Have Made Being Religious Part of Their Image. *Cheatsheet*. May 18. Available online: <https://www.cheatsheet.com/money-career/these-companies-have-made-being-religious-part-of-their-image.html/> (accessed on 29 March 2021).
- Hohfeld, Wesley. 1919. *Fundamental Legal Conceptions*. Edited by Walter Wheeler Cook. New Haven: Yale University Press.
- Horwitz, Paul. 2013. *First Amendment Institutions*. Cambridge: Harvard University Press.
- Horwitz, Paul, and Nelson Tebbe. 2016. Religious Institutionalism—Why Now? In *The Rise of Corporate Religious Liberty*. Edited by Chad Flanders, Micah Schwartzman and Zoë Robinson. New York: Oxford University Press.
- Humanists International. 2020. *Humanists at Risk: Action Report 2020*. Washington: Humanists International, Available online: <https://humanists.international/get-involved/campaigns/humanists-at-risk-report/> (accessed on 29 March 2021).
- Ignatieff, Michael. 2003. *Human Rights as Politics & Idolatry*. Princeton: Princeton University Press.
- Inazu, John. 2016. *Confident Pluralism: Surviving and Thriving Through Deep Difference*. Chicago: University of Chicago Press.
- Inazu, John. 2020. Obeying God Rather than Men? What's Really a Religious Liberty Issue? *Christianity Today*. July 31. Available online: <https://www.christianitytoday.com/edstetzer/2020/july/obeying-god-rather-than-men.html> (accessed on 29 March 2021).
- Johnson, C. Neal. 2009. *Business as Mission: A Comprehensive Guide to Theory and Practice*. Downers Grove: InterVarsity Press.
- Jones, Peter. 2017. Religious Exemption and Distributive Justice. In *Religion in Liberal Political Philosophy*. Edited by Cécile Laborde and Aurélie Bardon. New York: Oxford University Press.
- Kissinger, Henry. 2001. *Does America Need a Foreign Policy?* New York: Simon and Schuster, pp. 20–21.
- Koyzis, David. 2014. *We Answer to Another: Authority, Office, and the Image of God*. Eugene: Pickwick Publications, pp. 184–97.
- Koyzis, David. 2019. *Political Visions and Illusions: A Survey and Christian Critique of Contemporary Ideologies*, 2nd ed. Downers Grove: InterVarsity Press.
- Kymlicka, William. 1994. Individual and Community Rights. In *Group Rights*. Edited by Judith Baker. Toronto: Toronto University Press, pp. 17–33.
- Kymlicka, William. 2000. *Multicultural Citizenship: A Liberal Theory of Minority Rights*. Oxford: Clarendon Press, p. 206.
- Laborde, Cécile. 2017. *Liberalism's Religion*. Cambridge: Harvard University Press.
- Littlejohn, Brad. 2020. Christ and Caesar: A Response to John MacArthur. *Davenant Institute*. August 5. Available online: <https://davenantinstitute.org/christ-and-caesar-a-response-to-john-macarthur/> (accessed on 29 March 2021).
- Locke, John. 1983. *A Letter Concerning Toleration*. Edited by James Tully. Indianapolis: Hackett Publishing, p. 36. First published 1685.
- MacArthur, John. 2020. A Statement from John MacArthur. *Grace to You*. July 24. Available online: <https://www.gty.org/library/blog/B200723> (accessed on 29 March 2021).
- Marshall, Paul. 1992. Two Types of Rights. *Canadian Journal of Political Science* 25: 661–76. [CrossRef]
- Marshall, Paul. 1993. Do Animals Have Rights? *Studies in Christian Ethics* 6: 31–49. Available online: <https://journals.sagepub.com/doi/pdf/10.1177/095394689300600203> (accessed on 29 March 2021). [CrossRef]
- Marshall, Paul. 1996. *A Kind of Life Imposed on Man: Vocation and Social Order from Tyndale to Locke*. Toronto: University of Toronto Press.
- Marshall, Paul. 2002. Chapter 5. In *God and the Constitution*. Lanham: Rowman and Littlefield.
- Marshall, Paul. 2018. Canada's Supreme Court Ruling Is a Grave Blow to Religious Freedom—Not Only in Canada. *Providence*. June 18. Available online: <https://providencemag.com/2018/06/canada-supreme-court-ruling-grave-blow-religious-freedom-trinity-western-university/> (accessed on 29 March 2021).
- Marshall, Paul. 2019. Rights, Institutions, and Religious Freedom: Toward Clarity in the Midst of Controversy. *Cornerstone*. September 26. Available online: <https://www.religiousfreedominstitute.org/cornerstone/rights-institutions-and-religious-freedom-toward-clarity-in-the-midst-of-controversy> (accessed on 29 March 2021).
- Marshall, Paul. 2020a. Can For-Profit Corporations Be Religious? *Cornerstone*. July 25. Available online: <https://www.religiousfreedominstitute.org/cornerstone/can-for-profit-corporations-be-religious> (accessed on 29 March 2021).
- Marshall, Paul. 2020b. The World Needs Clarity on Human Rights. *Providence*. July 30. Available online: <https://providencemag.com/2020/07/world-needs-clarity-human-rights-unalienable-rights/> (accessed on 29 March 2021).

- Marshall, Paul. 2020c. Substituting “Values” for Law: Warnings from Canada. *Cornerstone*. January 30. Available online: <https://www.religiousfreedominstitute.org/cornerstone/substituting-values-for-law-warnings-from-canada> (accessed on 29 March 2021).
- McConnell, Michael. 2020. On Religion, the Supreme Court Protects the Right to Be Different. *New York Times*. July 9. Available online: <https://www.nytimes.com/2020/07/09/opinion/supreme-court-religion.html> (accessed on 29 March 2021).
- Milbank, John. 2006. *Theology and Social Theory: Beyond Secular Reason*, 2nd ed. Malden: Blackwell, p. 9.
- Milbank, John. 2013. *Beyond Secular Order: The Representation of Being and the Representation of the People*. Malden: Blackwell.
- Miller, John. 2016. ‘Freedom of Worship’ Isn’t Enough: Naturalization tests will now refer to ‘freedom of religion’ as a basic right. *Wall Street Journal*, June 10.
- Monsma, Stephen, and Stanley Carlson-Thies. 2015. *Free to Serve: Protecting the Religious Freedom of Faith-Based Organizations*. Grand Rapids: Brazos Press.
- Movsesian, Mark. 2019. Masterpiece Cakeshop and the Future of Religious Freedom. *Harvard Journal of Law & Public Policy* 42: 711–50. Available online: <https://www.harvard-jlpp.com/wp-content/uploads/sites/21/2019/06/Movsesian-Final.pdf> (accessed on 29 March 2021).
- Moyn, Samuel. 2019. *Not Enough Human Rights in an Unequal World*. Cambridge: Belknap Press/Harvard University Press.
- Muñis-Fraticelli, Victor. 2014. *The Structure of Pluralism: On the Authority of Associations*. New York: Oxford University Press.
- Murray, John. 1960. Are There Two or One? In *We Hold These Truths: Catholic Reflections on the American Proposition*. Kansas City: Sheed and Ward, pp. 197–217.
- Murray, Julie. 2007. Company Rules: Burke, Hastings, and the Specter of the Modern Liberal State. *Eighteenth-Century Studies* 41: 55–69. Available online: <https://www-jstor-org.ezproxy.baylor.edu/stable/30053748> (accessed on 29 March 2021). [CrossRef]
- National Zakat Foundation. n.d. Why has Salat and Zakat been Mentioned Together Repeatedly in the Qur’an? Available online: <https://nzf.org.uk/knowledge/why-has-salat-and-zakat-been-mentioned-together-repeatedly-in-the-quran/> (accessed on 29 March 2021).
- O’Donovan, Oliver. 1996. *The Desire of the Nations: Rediscovering the Roots of Political Theology*. Cambridge: Cambridge University Press, p. 214.
- Oakeshott, Michael. 1933. *Experience and Its Modes*. Cambridge: Cambridge University Press.
- Ooms, Julie. 2020. The Promise and Paradox of Christian Higher Education. *Christianity Today*, May/June. 84.
- Peaceably Gather. 2020. Thousands of Pastors Declare ‘No Compromise’, Pledging to Keep Churches Open Without Restrictions. *Peaceably Gather*. July 23. Available online: <https://peaceablygather.com/thousands-of-pastors-declare-no-compromise-pledging-to-keep-churches-open-without-restrictions/> (accessed on 29 March 2021).
- Pellowe, John. 2020. The Public Benefit of ‘Advance Religion’ as a Charitable Purpose: A Canadian Perspective. In *The Status of Religion and the Public Benefit in Charity Law*. Edited by Barry Busey. London: Anthem Press, pp. 41–77.
- Perry, Michael. 1998. Is the Idea of Human Rights Ineliminably Religious? In *The Idea of Human Rights: Four Inquiries*. New York: Oxford University Press, pp. 11–42.
- Perry, Michael. 2007. *Toward a Theory of Human Rights: Religion, Law, Courts*. New York: Cambridge University Press.
- Philpott, Daniel. 2019. *Religious Freedom in Islam*. New York: Oxford University Press, p. 22.
- Rachman, Gideon. 2009. Kissinger never wanted to dial Europe. *Financial Times*. July 22. Available online: <https://www.ft.com/content/c4c1e0cd-f34a-3b49-985f-e708b247eb55> (accessed on 29 March 2021).
- Raz, Joseph. 1986. *The Morality of Freedom*. New York: Oxford University Press, p. 208.
- Rhodes, Aaron. 2018. *The Debasement of Human Rights: How Politics Sabotage the Ideal of Freedom*. New York: Encounter.
- Rivers, Julian. 2010. *The Law of Organized Religions*. New York: Oxford University Press, p. 36.
- Rivers, Julian. 2019. Is Religious Freedom under Threat from British Equality Laws? *Studies in Christian Ethics* 33: 179–93. [CrossRef]
- Rosenblum, Nancy. 2000. Amos: Religious Autonomy and the Moral Uses of Pluralism. In *Obligations of Citizenship and Demands of Faith: Religious Accommodation in Pluralist Democracies*. Princeton: Princeton University Press, pp. 187–88.
- Rudenstrand, Jacob, and Paul Marshall. 2020. Growing Animus toward Religious Schools in Sweden. *Cornerstone*. June 5. Available online: <https://www.religiousfreedominstitute.org/cornerstone/growing-animus-toward-religious-schools-in-sweden> (accessed on 29 March 2021).
- Sabine, George. 1961. *History of Political Theory*. New York: Holt, Rinehart and Winston, p. 180.
- Schwartzman, Micah. 2017. Religion, Equality, and Anarchy. In *Religion in Liberal Political Philosophy*. Edited by Cécile Laborde and Aurélie Bardón. New York: Oxford University Press.
- Schwartzman, Micah, Chad Flanders, and Zoë Robinson, eds. 2016. *The Rise of Corporate Religious Liberty*. New York: Oxford University Press.
- Sepper, Elizabeth. 2014. Contraception and the Birth of Corporate Conscience. *Journal of Gender, Social Policy and the Law* 22: 316, quoted in Smith, Steven. 2020. Corporate Religious Liberty and the Culture Wars. In *The Cambridge Companion to the First Amendment and Religious Liberty*. Edited by Michael Breidenbach. New York: Cambridge University Press, pp. 333–64.
- Shah, Timothy Samuel, and Jack Friedman. 2018. *Homo Religiosus: Exploring the Roots of Religious Freedom in Human*. New York: Cambridge University Press.
- Shapiro, Ian, and Will Kymlicka. 1997. *Ethnicity and Group Rights: Nomos XXXIX*. New York: New York University Press.
- Sheahan, Luke. 2020. *Why Associations Matter: The Case for First Amendment Pluralism*. Lawrence: University Press of Kansas.
- Siedentop, Larry. 2014. *Inventing the Individual: The Origins of Western Liberalism*. Cambridge: Harvard University Press.
- Smith, Steven. 2014. *The Rise and Decline of American Religious Freedom*. Cambridge: Harvard University Press.

- Smith, Steven. 2016. The Jurisdictional Conception of Church Autonomy. In *The Rise of Corporate Religious Liberty*. Edited by Micah Schwartzman, Chad Flanders and Zöe Robinson. New York: Oxford University Press.
- Smith, Christian. 2017a. *Religion: What It Is, How It Works, and Why It Matters*. Princeton: Princeton University Press, pp. 204–6.
- Smith, Peter Jesserer. 2017b. Wegmans among Businesses Putting Catholic Social Teaching to Good Use. *National Catholic Register*. May 2. Available online: <https://www.ncregister.com/daily-news/wegmans-among-businesses-putting-catholic-social-teaching-to-good-use> (accessed on 29 March 2021).
- Smith, Steven. 2020. Corporate Religious Liberty and the Culture Wars. In *The Cambridge Companion to the First Amendment and Religious Liberty*. Edited by Michael Breidenbach. New York: Cambridge University Press.
- Stark, Rodney. 2015. *The Triumph of Faith: Why the World is More Religious than Ever*. Wilmington: ISI Books.
- Stepan, Alfred. 2000. Religion, Democracy, and the “Twin Tolerations”. *Journal of Democracy* 11: 37–57. Available online: <https://muse.jhu.edu/article/17085/pdf> (accessed on 29 March 2021). [CrossRef]
- Sumner, L.W. 1987. *The Moral Foundation of Rights*. Oxford: Clarendon Press, p. 8.
- Taylor, Charles. 2007. *A Secular Age*. Cambridge: Harvard University Press.
- Taylor, Kate. 2019. Chick-fil-A’s CEO signed a covenant with his father—The founder—Pledging to remain a committed Christian, keep the company private, and never open on Sunday. *Business Insider*. August 12. Available online: <https://www.insider.com/chick-fil-a-ceo-promised-closed-sunday-keep-company-private-2019-8> (accessed on 29 March 2021).
- Tierney, Brian. 1982. *Religion, Law and the Growth of Constitutional Thought, 1150–1650*. Cambridge: Cambridge University Press.
- Trigg, Roger. 2012. *Equality, Freedom and Religion*. Oxford: Oxford University Press, pp. 11–26.
- Tyndale, William. 1848. A Parable of the Wicked Mammon. In *Doctrinal Treatises and Portions of Holy Scripture*. Cambridge: Parker Society, pp. 98, 104. First published 1527.
- Van der Vyver, John. 1988. Sphere Sovereignty and the American Concept of Religious Freedom. In *Reformed Christians and Social Justice*. Sioux Center: Dordt College Press, pp. 26–27.
- Verburg, Marcel. 2015. *Herman Dooyeweerd: The Life and Work of a Christian Philosopher*. Jordan Station: Paideia Press.
- Voegelin, Eric. 1986. *Political Religions*. Lewiston: Edwin Mellen Press.
- Volf, Miroslav. 2005. A Voice of One’s Own: Public Faith in a Pluralistic World. Discussion draft for conference on “The New Religious Pluralism and Democracy.” Washington, DC: Georgetown University, April 21–22, referenced in Buckingham, Janet Epp. 2014. In *Fighting Over God: A Legal and Political History of Religious Freedom in Canada*. Kingston: McGill-Queen’s University Press, p. 207.
- Walzer, Michael. 1983. *Spheres of Justice: A Defense of Pluralism and Equality*. New York: Basic Books.
- Weber, Max. 1946. “Politics as a Vocation” and “Science as a Vocation”. In *From Max Weber: Essays in Sociology*. Edited by Hans Heinrich Gerth and C. Wright Mills. New York: Oxford University Press, pp. 77–156.
- Weckesser, Bill. 2020. California pastor challenges governor: ‘Christ is Lord over Caesar’. *American Thinker*. July 28. Available online: https://www.americanthinker.com/blog/2020/07/california_pastor_challenges_governor_christ_is_lord_over_caesar.html (accessed on 29 March 2021).
- Wilken, Robert Louis. 2019. *Liberty in the Things of God: The Christian Origins of Religious Freedom*. New Haven: Yale University Press, p. 1.
- Witte, John. 2007. *The Reformation of Rights: Law, Religion, and Human Rights in Early Modern Calvinism*. New York: Cambridge University Press.
- Witte, John. 2009. A Demonstrative Theory of Natural Law: Johannes Althusius and the Rise of Calvinist Jurisprudence. *Ecclesiastical Law Journal* 11: 21–36. [CrossRef]
- Witte, John, Jr., and Frank Alexander. 2008. Christianity and Human Rights. In *Christianity and Law: An Introduction*. New York: Cambridge University Press, pp. 237–48.
- Wolin, Sheldon. 2004. *Politics and Vision: Continuity and Innovation in Western Political Thought*, Expanded edition. Princeton: Princeton University Press, Chapter 4.
- Wolterstorff, Nicholas. 2012. *The Mighty and the Almighty*. New York: Cambridge University Press, Chapter 14.
- Zenit. 2018. Vatican: Catholic Church Statistics 2018. *Fides*. October 20. Available online: <https://zenit.org/articles/vatican-catholic-church-statistics-2018/> (accessed on 29 March 2021).

Article

Litigating the Limits of Religion: Minority and Majority Concerns about Institutional Religious Liberty in India

Chad M. Bauman

Department of Philosophy, Religion, and Classics, Butler University, Indianapolis, IN 46208, USA; cbauman@butler.edu

Abstract: Western religious liberty advocates tend to focus on restrictions placed on minority religious communities, particularly when advocating abroad, that is, outside of the country in which they reside. In all contemporary democracies, however, adherents of religious majorities also express concerns about religious liberty. For this reason, the article considers both minority and majority concerns about institutional religious freedom in India. This essay provides an overview of religious freedom issues, with a particular focus on institutions, though, as I acknowledge, it is not always simple to distinguish individual from institutional matters of religious freedom. After describing various minority and majority concerns about institutional religious freedom in India, and demonstrating that many of them are related to the Indian government's distinctive approach to managing religion and religious institutions, I make the argument that while some cross-cutting issues provide the possibility of interreligious understanding and solidarity in matters of religious liberty advocacy, such solidarity will not emerge without considerable effort because of the fact that debates about religious liberty in India often fundamentally involve debates about the very nature of religion itself, and these debates tend to divide rather than unite India's majority and minority religious communities.

Citation: Bauman, Chad M.. 2021. Litigating the Limits of Religion: Minority and Majority Concerns about Institutional Religious Liberty in India. *Religions* 12: 400. <https://doi.org/10.3390/rel12060400>

Academic Editors: Timothy Shah and Nathan A. Berkeley

Received: 18 April 2021
Accepted: 28 May 2021
Published: 31 May 2021

Publisher's Note: MDPI stays neutral with regard to jurisdictional claims in published maps and institutional affiliations.



Copyright: © 2021 by the author. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

Keywords: Hindu; Christian; law; restriction; religion; religious freedom; India; minority; majority; legal; regulation; temples; churches; mosques

1. Introduction

Western religious liberty advocates tend to focus on restrictions placed on *minority* religious communities, particularly when advocating abroad, that is, outside of the country in which they reside. In all contemporary democracies, however, adherents of religious *majorities* also express concerns about religious liberty. For this reason, this article considers both minority and majority concerns about institutional religious freedom in India. The inclusion of both minority and majority concerns and demands should not be construed as an assertion of their equal legitimacy or their logical or moral equivalence, nor as an implicit argument that the existence of both minority and majority concerns about religious liberty demonstrates that minority and majority interests have been appropriately balanced in Indian law and society. However, by attending to both majority and minority concerns, it is possible to foreground the fact that while, in most cases, religious minorities (and/or minorities within the majority) are more thoroughly targeted by religious liberty restrictions, such restrictions often end up infringing upon the freedoms of religious majorities as well.

This is an important point in India, where majoritarian politics are on the rise, and where there therefore seems little possibility of minority–majority solidarity on matters of religious liberty. Acknowledging that the religious majority also has concerns about religious liberty, however, may help those who care about religious freedom more generally to gain a hearing in majority circles, and therefore—waxing idealistic—to more effectively promote minority–majority solidarity and mutual understanding.

Because of the thematic focus of this special issue, this essay provides an overview of religious freedom issues, with a particular focus on *institutions*, though, as I acknowledge,

it is not always simple to distinguish individual from institutional matters of religious freedom. With one possible exception (that of the Uniform Civil Code/personal laws discussed briefly in the conclusion), the cases highlighted are those that have generated by far the most national, and even international discussion and debate over the last two decades. After describing various minority and majority concerns about institutional religious freedom in India, and demonstrating that many of them are related to the Indian government's distinctive approach to managing religion and religious institutions, I make the argument that while some cross-cutting issues provide the possibility of interreligious understanding and solidarity in matters of religious liberty advocacy, such solidarity will not emerge without considerable effort because of the fact that debates about religious liberty in India often fundamentally involve debates about the very nature of religion itself. These debates tend to divide rather than unite India's majority and minority religious communities.

2. Context

There is a long and impressive history of interreligious tolerance in India, one promoted by Indian rulers at least as far back as the third-century BCE emperor, Ashoka the Great, whose rock edicts famously declared his respect for all sects and counseled his subjects to avoid disparaging others' religious beliefs. The Indian tradition of tolerance has often manifest in a willingness to consider others' religious beliefs "true," but inferior, and only in subordination to the higher truths of one's own tradition, which is why Ainslee Embree (1990, p. 25) referred to it as "encapsulation" rather than "tolerance," adding that encapsulation was "neither toleration, absorption, nor synthesis." Nevertheless, it has also produced, historically speaking, a relatively remarkable degree of interreligious harmony.

Such ideals were promoted at independence by India's most influential political intellectuals, Jawaharlal Nehru (1889–1964), Sarvepalli Radhakrishnan (1888–1975), and Mohandas K. ("Mahatma") Gandhi (1869–1948). Hindu ideals tintured independent India's conception of secularism, but that is of course to be expected, since the construction of Western secularism was certainly inflected by Christian ideals as well. Gandhi's views on secularism and religious freedom were in fact quite complex. On the one hand, he sought interreligious solidarity, regularly admitted to finding wisdom and truth in other religious traditions, approached all political challenges with admirable equilibrium, and was committed to non-violence. On the other hand, Hindu voices and symbolism dominated the independence movement that he led, he periodically betrayed majoritarian instincts, and his conception of the purpose of religion itself—as spiritual advance and transformation available within any religious tradition—clearly emerged from the "Indic" religious milieu that included Hinduism, Buddhism, Jainism, and Sikhism, such that he found proselytization¹ uncouth and unreligious, and periodically declared his support for banning it (Claerhout 2010, 2014). (Note here, for the sake of the conversation below, how a particular conception of religion inherently recommends a particular politics in terms of the management of religion.)

As is clear from the discussion above, then, through much of the long arc of its history, and even long before its modern democratization, India has enjoyed the presence of the "twin tolerations" that Alfred Stepan (2001) famously argued were so critical to the functioning of democratic society, i.e., the "toleration of religious citizens . . . [to] accord democratically elected officials the freedom to legislate and govern without having to confront denials of their authority based on religious claims," and the willingness of government laws and officials to "permit religious citizens, as a matter of right, to freely express their views and values within civil society, and to freely take part in politics, as long as religious activists and organizations respect other citizens' constitutional rights and the law" (Stepan 2012, p. 90). Though there have been paroxysms of massive interreligious violence in India, the region's political and legal structures have traditionally respected the distinction between political and religious leadership and promoted interreligious tolerance while still allowing for the substantive, even clamorous inclusion of religious

viewpoints in public affairs. Moreover, while independent India has periodically moved to regulate or repress Hindu nationalist organizations like the Rashtriya Swayamsevak Sangh, there have been no appearances of the thoroughly religiously repressive secularist regimes found, for example, in communist states, or in late eighteenth-century France, or the Middle East from the late nineteenth to the early twentieth centuries. Nor have there been theocratic movements of any power or endurance.

Still, already in 2009, long before 2014, when India's Hindu nationalist Bharatiya Janata Party (BJP) won the first of its two successive national elections, increasing issues with regard to religious freedom had led Pew to rank India as a country with a "high" level of government restrictions on religion (the second highest ranking), and a "very high" level of social hostilities related to religion (the highest possible ranking). In Pew's most recent report (published in 2020, using 2018 data), only nine other countries were judged to have "very high" levels of social hostility.² In addition, according to Pew, among the world's 25 most populous countries, India joined Egypt, Indonesia, Pakistan, and Russia as the five with the highest overall levels of both government restrictions and social hostilities involving religion (Pew Research Center 2020, p. 39). Similarly, in its 2020 report, the United States Commission on International Religious Freedom (USCIRF) placed India, for the first time, on its list of "Countries of Particular Concern" (United States Commission on International Religious Freedom 2020).³ India's woes are arguably overstated, in part by Pew's emphasis on raw numbers rather than numbers adjusted for population, and even USCIRF Commissioner, Gary Bauer, dissented from his Commission's findings. Still, such reports highlight significant issues with regard to religious liberty in India.

The rise of majoritarian politics in contemporary India, however, threatens the endurance of the twin tolerations yet further. In recent years, the rights of Muslims and Christians to freely express their views in the social and political sphere have been increasingly curtailed through both legal means and social repression. The justification given for this progressive curtailment is that Islam and Christianity, using Stepan's language, do not "respect other citizens' constitutional rights and the law." To understand this claim, one must remember that Indians have historically "encapsulated" rather than rejected others' religions (as described above). From the perspective of Ashoka's ancient advice to avoid unnecessarily disparaging others' religions and this historically dominant tradition of encapsulation, traditions that demonize or denounce other religions (as more exclusivistic versions of Islam and Christianity sometimes do) appear inherently intolerant, and appear also to deny others' constitutional right to freedom *from* religious insult and critique. And if they do (again from this particular perspective), then the government has no obligation (and in fact would be ill-advised) to tolerate them. While many therefore blame the rise of Hindu nationalists for the decline of India's twin tolerations, Hindu nationalists themselves would justify their withholding of toleration from Islam and Christianity on the grounds that those religions threaten India's tradition of religious tolerance itself.

It is for good reason, then, that there is currently a pitched rhetorical and ideological battle over Gandhi's historical legacy. And while this battle concerns history, it is in reality more about the future, that is, about the right to determine the shape of Indian society, and in particular the relationship of its religious communities one to another. This battle pits more pluralist and pro-minority individuals, institutions, and political parties against their more Hindu majoritarian counterparts. Both claim Gandhi's mantle, and both are, in a partial sense, Gandhi's rightful heirs. Both, moreover, embrace the term "secular," though they understand the term in radically different ways. While for much of India's independent history, those in the former group enjoyed political power, in the last two decades, and especially since 2014, those in the latter group have been ascendant. This ascendancy, and the continuing tension between these two visions of and for India, animate and give contemporary Indian debates and controversies over religious liberty their distinctive flavor.

What should be clear from the previous paragraph is that the complexity of Gandhi's views on religion, religious freedom, and secularism are mirrored in the views of the

citizens of the nation he helped found, as well as in its constitution and laws governing religion. Article 25 of the Indian Constitution guarantees that “all persons are equally entitled to freedom of conscience and the right to freely profess, practice, and propagate religion subject to public order, morality and health.” In addition, since 1976, India has identified itself as a “sovereign, socialist *secular* democratic republic.” These significant statements clearly enshrine the basic principles of religious freedom in Indian law. When minority and majority concerns about religious freedom arise in contemporary India, therefore, they are generally related not to constitutional provisions in and of themselves but rather to the following:

1. The *interpretation* of constitutional provisions (e.g., on the term “propagate”);
2. Failure to implement constitutional directives (e.g., on a Uniform Civil Code);
3. Statutory laws or judicial rulings that appear to privilege the majority Hindu community or target/disprivilege a specific minority religious community (e.g., the Citizenship Amendment Act, or state “Freedom of Religion” laws);
4. The use of statutory law as a tool of harassment (e.g., state “Freedom of Religion” and anti-blasphemy laws);
5. Government management of institutional religious affairs (e.g., temple management boards, restrictions on foreign funding);
6. Extrajudicial suppression of constitutionally enshrined freedoms through acts of vigilante justice and/or intimidation (e.g., cow vigilantism, anti-love jihad crusades, anti-minority violence);

Each of these is discussed, in one way or another, in the pages that follow.

3. Minority Concerns

If this article were focused on matters of religious freedom more generally, it would naturally discuss recent controversies about the Citizenship (Amendment) Act of 2019 (CAA), the troubling increase in “cow vigilantism” (attacks on those suspected of beef consumption or trade), or mob lynching related to the bogeyman of “love jihad” ([Adcock 2010](#), pp. 297–311; [2018](#), pp. 340–54; [Engineer et al. 2020](#); [Mehta 2019a](#); [Rao 2011](#), pp. 80–87; [Wilkes and Srivastava 2017](#)). These matters primarily concern Muslims, since (along with Dalits in the case of cow vigilantism) Muslims are most affected by them. It is certainly the case that in the aggregate, suppression of individual religious freedoms can have a negative effect on institutional religious freedom as well. However, this article focuses on issues of clear and explicit institutional relevance. These are organized below into sections focusing on the respective concerns of India’s minority and majority religious communities (though as discussed in the conclusion, the division into minority and majority concerns requires something of an oversimplification).

3.1. Restrictions on Religious Assembly

A matter of contemporary concern relevant to freedom of religious assembly is the government’s revocation of Article 370 on 5 August 2019. Article 370 of the Indian Constitution assigned to the state of Jammu and Kashmir (J&K) limited autonomy to have its own constitution and make its own laws regarding ownership of property, fundamental rights, etc. Critics claimed that the state’s special status prevented its economic development (e.g., through laws preventing other Indians from owning land in the state) and also hampered the government’s efforts to root out radical Islam and terrorist infiltration from Pakistan (J&K was the only Indian state with a Muslim majority, and Pakistan still claims significant sections of the territory as its own).

The revocation of J&K’s special status had long been a stated goal of the BJP, and it was a prominent plank of the party’s 2019 re-election platform. After its decisive victory in that election, the BJP government quickly moved in extra troops to squelch predictable unrest, revoked Article 370, and effectively shut down many of the region’s institutional infrastructure by simultaneously invoking Section 144 of the Criminal Code of Procedure. Under Section 144, the government limited public movement and assembly, arrested

opposition party leaders, shut down the internet, closed down mosques, and detained at least a few Muslim clerics, while threatening others with imprisonment should they publicly criticize the central government's actions (Mehta 2019b; Scroll Staff 2019; Zargar 2019). The government argued that these restrictions were necessary to preserve law and order, but many Muslims considered them a targeted assault on their religious freedom.

A year on, many of the restrictions and detentions remain in effect, some now justified on the grounds of preventing the spread of COVID-19. Existing restrictions were increased yet further (though temporarily) around the one-year anniversary of the revocation of Article 370, not only because the anniversary itself was expected to inspire protests, but also because that same date was provocatively chosen as the day on which BJP Prime Minister Narendra Modi would lay the foundation stone on a Ram Temple to be built on the disputed site of the Babri Masjid ("Babar's Mosque").⁴ The concurrence of these events symbolically linked them, and further fueled the perception of the BJP as a party intent on asserting Hindu dominance and control over Muslims and other religious minorities. Appraisals of the BJP's actions in Kashmir vary, though in truth there had been widespread weariness with the region's longstanding volatility, and some polls show strong public support for the party's actions there, as well as on CAA and the Supreme Court's earlier pro-Hindu decision on the contested Babri Masjid issue (India Today Web Desk 2020).

House churches raise additional issues related to freedom of religious assembly. There are no laws that regulate Indian house churches in any significant way. Still, Indians periodically become annoyed to find their neighbors hosting boisterous worship. In the absence of regulatory laws and zoning restrictions, some very small portion of those annoyed by neighboring house churches may seek extrajudicial solutions. If they have some local political clout, they may be able to convince local law enforcement officials to threaten or detain house church pastors (and/or members) on spurious charges, or to counterfactually assert that holding worship in one's house requires prior permission from local officials. If such solutions are unavailable, or ineffective, those opposed to house churches in their midst may gather others and employ mob violence or the threat of it to intimidate pastors or entire congregations into meeting elsewhere (or not at all). Such actions are often instigated by aggrieved neighbors, but they are also occasionally set in motion by non-local opponents of Christianity who are concerned less by the boisterous worship of house church Christians than by their perception that the emergence of a house church signifies the establishment of a Christian foothold in a previously unchurched area (Bauman 2020, pp. 88–89). Therefore, despite the fact that Indian law generally allows for house church worship, in the view of house church defenders, social forms of opposition such as these represent a socially-enforced restriction of religious freedom.

3.2. Restrictions on Receipt of Foreign Donations

India's Foreign Contribution (Regulation) Act, 2010 (FCRA) requires that NGOs receiving donations from abroad regularly and accurately report the nature and source of those donations, and further assigns to government officials the right to revoke the licenses of NGOs found violating the Act's regulations. There is nothing particularly unusual in a sovereign nation wishing to keep an eye on foreign funds received by NGOs operating within its borders, and for many years the FCRA appears to have been imposed in a largely non-partisan manner. However, the Act allows the government to deny NGOs the right to receive foreign funds if they are engaged in political activities (broadly and vaguely defined), or "any activities detrimental to the national interest." Such provisions are of course available for exploitation by government figures, who, acting unconsciously out of self-interest or more consciously for blatantly political purposes, confuse their party's interest with the nation's.

This is precisely what critics have accused the BJP of doing since it came to power in 2014. In just the first two years of its rule, the government used its FCRA powers to revoke or refuse to renew the licenses of over 20,000 NGOs (Bhattacharya 2018; Press Trust of India 2016). Most were revoked or denied for technical violations of the reporting

procedures, as previous governments had periodically done (though not nearly on the same scale), while others were accused of engaging in activities detrimental to the national interest. Critics of the government's actions, which include UN Special Rapporteur on Freedom of Assembly and Association, Maina Kiai (2016), note with suspicion that the list of organizations targeted includes a disproportionate number of Christian and Muslim NGOs, along with a disproportionate number of the kinds of leftist universities and human rights organizations whose activities and political views generally run counter to those of the BJP.

Among organizations that have lost their licenses are prominent international NGOs like Greenpeace and Compassion International. Greenpeace, into whose activities previous governments had also inquired, has sued the government to restore its license. Meanwhile, Compassion International—accused of being a front for proselytization—shuttered its operations in India after losing the right to receive foreign funds. Indian NGOs run by Teesta Setalvad, a frequent critic of Prime Minister Modi's human rights record, similarly lost their licenses, while Act Now for Harmony and Democracy, which is run by prominent Muslim advocates for human rights, was denied a license on the basis of its "undesirable activities against public interest."⁵ The government has therefore targeted a full range of developmental, environmental, political, and religious organizations (including at least a few Hindu religious organizations) in its FCRA enforcement. The impression remains strong among Muslims and Christians, however, that they are being disproportionately targeted in FCRA enforcement, and that this disproportionate targeting constitutes discrimination against minority religions and an infringement upon their religious rights. Incidentally, the new restrictions have also significantly hampered COVID-19 pandemic relief efforts, with devastating and at times deadly result (Saha 2020).

3.3. Restrictions on Proselytization

Proselytization is restricted in India both legally and extra-legally (that is, through intimidation and violence). The section begins with a discussion of legal restrictions, before moving on to the extrajudicial acts of intimidation and violence that are often used to enforce, extend, or circumvent limits on these legal restrictions. As noted above, Article 25 of India's Constitution provides to all Indian citizens the "right to freely profess, practice, and propagate religion subject to public order, morality and health." At first glance, the Constitution would therefore seem to include within it the right to proselytize. But it does not, at least not fully, and the reason for this can be found in the history of India's Constitution and subsequent judicial rulings regarding state "Freedom of Religion" laws.

Reflecting the complexity of Gandhi's views (as described above) representatives to India's Constituent Assembly, charged with creating the young nation's constitution in the years between 1946 and 1950, debated the wisdom of ensuring the right to proselytize. Reasoning from a definition of religion similar to Gandhi's, as spiritual advance and transformation available within any religious tradition, some members of the Assembly considered proselytization disruptive and extraneous to the essential nature of religion, and therefore recommended that the new constitution forbid it (Claerhout and Roover 2019). They were eventually defeated by those who argued that evangelism was an essential component of religion and therefore of religious liberty itself. In this camp were many Christian members of the Assembly, who argued for the necessity of proselytization based on their more typically modern Christian understanding of religions as assemblages of beliefs and practices oriented around the pursuit of uniquely salvific truth (which, significantly, *cannot* be found in all religions). The inclusion of the right to "propagate" religion in Article 25 reflects the compromise these divergent camps eventually achieved.

What appeared to be a victory for the pro-proselytization camp was undermined two decades later, however, by the Supreme Court's ruling in the case of *Rev Stanislaus vs. Madhya Pradesh* (1977). The history of this ruling begins ten years earlier, when the state of Odisha passed a Freedom of Religion Act (1967) proscribing "conversion from one [r]eligion to another by the use of force or inducement or by fraudulent means." A

year later, the state of Madhya Pradesh passed its own version of the law.⁶ Challenges to the constitutionality of these laws produced contradictory opinions in their respective state High Courts, which referred the matter to the Supreme Court for reconciliation. In its decision, the Court defined “propagate” in a more limited way than proposed by those in favor of proselytization, i.e., as the right to “transmit or spread one’s religion by an exposition of its tenets,” while explicitly stating that Article 25 did not ensure “the right to convert another person to one’s own religion.”⁷

The distinction is a fine one, and what it means in practice has been difficult to determine. On the one hand, there are no laws that clearly and explicitly forbid proselytization (again, using the term “proselytize” to denote evangelism with the intent of converting another). Even the Freedom of Religion laws (often called “anti-conversion laws” by their detractors, and now on the books in seven Indian states) forbid only conversion by “force,” “fraud,” “inducement,” and/or “allurement”. On the other hand, the ruling established that there is no constitutionally guaranteed right to proselytize. Without such a guarantee, those who engage in proselytization are vulnerable to prosecution under Freedom of Religion laws, as well as under Section 153(A) of the Indian Penal Code, which forbids the promotion of “disharmony or feelings of enmity, hatred or ill-will between different religious . . . communities,” or under Section 295(A) of the Indian Penal Code, a colonial-era legal holdover that threatens imprisonment to those who deliberately outrage “the religious feelings of any class,” or who insult, or attempt “to insult the religion or the religious beliefs of that class” (Adcock 2016, pp. 337–51; Nair 2013, pp. 317–40).

The problem is not so much with the letter of these laws, defined narrowly. Though some of the most assertively proselytizing Christians may consider it their duty to cause offense in the context of evangelism, an aggressive position they justify with reference to biblical assertions about the “offense of the cross” (Galatians 5:11; see also, 1 Corinthians 1:23), the vast majority of Christians in India, as elsewhere, would agree that evangelism should be characterized by kindness and charity, and that no Christian should seek to convert others by force, fraud, or inducement, at least so long as those terms are interpreted narrowly. The problem, as defenders of proselytization see it, lies with the tendency, particularly of lower-level Indian police officers and judges, to interpret such terms more expansively.

Is it insulting, for example, to tell another person that their religion is false? Does it promote disharmony to convert an 18 year old from her parents’ religion? Is it inducement to promise a potential convert that he will be treated better in your religion than he is in his (a common tactic of Indian Christian missionaries when talking with Dalit Hindus)? Is it fraud if that turns out not to be true? Is it inducement if potential converts presume they will receive educational or economic benefits from conversion, even if such benefits are never explicitly promised or offered? Is it force to threaten eternal damnation? While most exclusivist Christians—committed as they are to the notion that salvation is available in only one religion, and therefore accordingly certain of the necessity of the freedom to evangelize and convert—would answer “no” to such questions, many non-Christians in India would answer “yes” to some or all of them. And if affirmative answers are given to such questions, then almost anybody engaged in evangelism, let alone proselytization, could be accused of transgressing the law. In fact, some Freedom of Religion laws now expressly provide affirmative answers, such as in Jharkhand’s Religious Freedom Bill, 2017, which prohibits conversion by “force” and includes, within its definition of the term, “threat of divine displeasure.”⁸ (Richards (2016) provides the most thorough overview and analysis of India’s Freedom of Religion laws).

Because of the slippage in such terms, those wishing to put a stop to the growth of Christianity, or to evangelism in all forms (even within churches), are frequently able to convince sympathetic law enforcement officers to question, intimidate, detain, or even charge Christians under these laws, even if the Christians in question are operating legally according to their more narrow interpretation. A recent incident demonstrates how these legal issues connect with those surrounding house churches discussed above. According to

International Christian Concern, in September of 2019, pastors of a house church in the state of Uttar Pradesh were roughed up by members of a mob associated with a radical Hindu group in the area. Police arrived, and arrested the pastors rather than the perpetrators of the assault. The pastors were then booked under Section 295(A) of the Indian Penal Code for allegedly outraging the religious feelings of Hindus, and were released on bail only five days later (Smith 2019). Most cases like this do not advance towards serious prosecution. Instead, detentions and requirements of repeated appearances in court are used to harass and impoverish the victims before their cases are ultimately dismissed.

In some circumstances, however, even accusations lacking the most basic forms of supportive evidence embroil their victims in serious and drawn out legal affairs. In May of 2017, for example, eight Christians transporting Christian children by train to a Bible camp near Nagpur, Madhya Pradesh, were detained by railway police. A case was registered against them for kidnapping, and they were also charged with forcible conversion under the Madhya Pradesh Freedom of Religion Act, despite the fact that the children's parents, when questioned, consistently told authorities their children had been raised Christian and were traveling with the accused with parental knowledge and permission. When the incident occurred, the children were separated from the accused, and were not even allowed to return to their parents (who came looking for them) until many hours later. Meanwhile, the accused were denied bail, and remained in jail for three months. Even reuniting the children with their parents and getting the accused out on bail required intervention from the high-powered lawyers of ADF India. Nearly three years later, in February, 2020, the eight were acquitted in court, largely because not a single witness supported the prosecution's assertions (Chari 2017b). In the meantime, however, many lost their sources of income and faced financial ruin. Two more Christians were arrested taking children to the same Bible camp only days later, and several months after that, an almost identical incident took place as another group of Christian children and their chaperones made their way to a Bible camp in Mumbai. Activists associated with strongly anti-Christian, local Hindu nationalist organizations are alleged to have set all three incidents in motion (Chari 2017a).

Such stories demonstrate that Sections 153(A) and 295(A) of the Indian Penal Code, as well as state Freedom of Religion Laws, function primarily as tools of harassment and intimidation (Bauman 2008, pp. 181–213; 2010, pp. 263–90; 2013a, pp. 297–321; 2016, pp. 31–39; Bauman and Ponniah 2016, pp. 223–53; 2017, pp. 68–78). Those accused under such laws are rarely if ever convicted for their alleged crimes. Moreover, anecdotal data from lawyers involved in defending the people booked under these laws suggests that they are also far more likely to spend time in jail than those booked under other laws of similar severity, despite directives from the Supreme Court that those charged under laws with maximum jail sentences of fewer than seven years should generally not be arrested at all (unless convicted).

In addition to serving the interests of those who wish to harass and intimidate, the laws also function to prevent conversion by miring potential converts in Kafkaesque bureaucracy. Several of the state Freedom of Religion laws, for example, include provisions requiring potential converts to alert local authorities in advance of their conversion ceremonies, and/or seek permission from local authorities to convert. These authorities are tasked with determining whether the conversions are induced or coerced, and have the power to deny requests for conversion. Preliminary results from a Right to Information request filed by Indian human rights organizations, and seeking statistics on the application of such laws, indicate that at least in two states, the vast majority of conversion requests have been denied, which generally has the result of driving conversions and Christian identity underground.⁹

Uncertainty regarding the scope of laws regulating evangelism and conversion, along with their uneven and prejudicial application, concerns Christians who feel an obligation to evangelize but wish to do so lawfully. These same issues, however, also frustrate opponents of proselytization and conversion, who—presuming a broader interpretation of the laws—

believe that they effectively prohibit open evangelism, proselytization, and conversion, and yet witness such things taking place all around them. Most of them express their frustration civilly. Some very small proportion of them, however, decide to take the law into their own hands and attempt to enforce a complete ban on evangelism and/or conversion through acts of intimidation and violence. Incidents of such violence have increased dramatically since the late 1990s, such that today there are around two to three hundred incidents of anti-Christian violence each year (Bauman 2013b; Bauman and Leech 2011). Research by Saiya and Manchanda (2020, pp. 587–607) suggests that states with Freedom of Religion laws in force have rates of anti-Christian violence seven times higher than that of states without them.

Relative to the size of the population, this puts the number of incidents of anti-Christian violence in India well under the number of hate crimes perpetrated against both Muslims and Jews in the United States (according to FBI statistics),¹⁰ and the number of incidents of anti-Christian violence in India would be well under the number of anti-Jewish hate crimes in the US (relative, again, to the size of the population), *even if these estimates of incidents of anti-Christian violence in India represented a severe undercounting*.

One significant difference is that such incidents in the Indian context somewhat more regularly target Christians in the act of evangelism (or while conducting vacation Bible schools, or ordinary church services), that is, in the course of activities they consider part of their religious duty. Another primary difference is that hate crimes involving murder in the US are generally the work of disaffected young white male gunmen, whereas murders in the context of anti-Christian violence in India, which are exceedingly rare, almost exclusively take place in the context of largescale riots like those in Kandhamal, Odisha, in 2007 and 2008 (where around fifty people were killed, mostly but not exclusively Christian). Such anti-Christian riots are themselves exceedingly rare, and none in independent India have been as deadly as those in Kandhamal.

I provide this comparative data not to downplay the severity or scale of the problem in India, but rather to provide some context for assessing it. Moreover, it is important to note that these acts of intimidation and violence have significantly altered the way that evangelistic Christians behave in India (as similar attacks likely have altered the way that Muslims and Jews behave in the United States). Most significantly, many Christians who might otherwise consider evangelism a religious duty have abandoned it to avoid the risk of violence or legal harassment. For those who believe they have a right and duty to evangelize and/or proselytize, then, these forms of social violence exacerbate what they already perceive to be the legal infringement upon their religious rights as citizens of India.

The legal regulation of proselytization and conversion strikes many Western observers as a clear violation of religious liberty. The fact that it does, however, is at least partly related to the fact that such observers have been socialized, (1) within predominantly Christian cultural environments where proselytization is acknowledged, even by critics, to be a traditionally important (if not universal) aspect of religious expression, and (2) within legal frameworks that value government non-interference in religion and do not consider religious reform the government's obligation or prerogative. Indians, however, have been socialized within a different religious, legal, and political environment. Both Indian and Western courts must make determinations about what constitutes legitimate religious practice. United States courts, for example, have weighed in on whether animal sacrifice and the religious use of psychedelic drugs are necessary ritual practices. Indian courts make similar determinations according to what has come to be known as the "essential practices" doctrine described below. Comparatively speaking, however, Indian courts have more explicitly considered it their (and the government's) role to *manage and reform* religious practice in pursuit of what Dhavan has called "reformatory justice" (Acevedo 2014, p. 162; Dhavan 2001).

This tendency has a history that goes back to colonial times (e.g., with British intervention in practices such as *sati*), but is also importantly related to the fact that Indians have traditionally understood religion, interreligious relations, and religious institutions as

social, public things which must be managed by the government for the public good, and with a view towards ensuring equitable access and interreligious harmony (Acevedo 2014; Bhargava 2005, pp. 124–25). The willingness of Indian courts to uphold the legal regulation of proselytization and conversion may be seen as an indirect expression of its “ameliorative approach” (Jacobsohn 2009, p. 17), an approach that does not merely take religion as it is but also pronounces on what religion *should be*, i.e., modern, rational, tolerant, inclusive, egalitarian, and not “superstitious” (Sen 2007, p. 10).

That same tendency also helps account for the victim-blaming included by the Supreme Court in its decision upholding the conviction of Dara Singh, famously charged with murdering Australian missionary Graham Staines and his two young sons in 1999: “It is undisputed that there is no justification for interfering in someone’s belief . . . upon [the] flawed premise that one religion is better than the other.” After public backlash, the court took the extraordinary step of expunging the statement (Sinha 2011). If such statements may be seen as an indirect expression of the Indian government’s inclination towards religious reform, the cases discussed below highlight controversy over its more direct expression.

4. Majority Concerns

Not all secularisms are alike, and while India’s Constitution enshrines the non-establishment of religion, it does not enshrine *non-interference* in religious affairs or command a strict separation of religion and state. Rather, acknowledging the centrality and value of religion in Indian society—the essential *publicness of religion*—the Indian government has adopted ideals of “celebratory neutrality” (Dhavan 2001, p. 320) and “principled distance” (Bhargava 1998, p. 7) vis-à-vis religion, positioning itself, ideally, equally close to and equally distant from all religions. As indicated above, this position has allowed for, even encouraged, Indian judicial regulation of religious affairs. Indian courts have historically engaged in both “internal regulation” of religion (i.e., determining the legitimacy of particular religious beliefs or practices by reference to authoritative utterances, doctrines, and scriptures of the religion in question) and “external regulation,” e.g., through involvement in the management of religious institutions (Acevedo 2014, p. 151; 2016, p. 849).

While the Indian government and judiciary have exercised regulatory and reformatory authority over various religions, they have done so most significantly and regularly with regard to Hinduism. Moreover, whereas the Indian state’s interventions in Hindu affairs have often privileged liberal and egalitarian formulations, it has been far more circumspect with regard to minority religions, leaving even their relatively regressive practices intact (perhaps out of a sense of respect for minority rights, perhaps because it is politically expedient to avoid interference in the affairs of religious minorities). This justifiably concerns many Hindus, both because it represents a greater degree of governmental interference in Hindu than minority affairs and—from the perspective of more conservative Hindus—because it constitutes a refusal to allow Hindus to cling to what some of them consider traditional beliefs and practices. Resisting government intrusion into Hindu religious affairs (or at least the expansion of it) has therefore come to be a central concern not only of the Hindu right, but also of many typical, middle-class Hindus. Two cases involving prominent Hindu Temples—Sabarimala and Padmanabhaswamy—recently reached India’s Supreme Court, and are illustrative of the issues at play. The Sabarimala case turned on issues of internal regulation, whereas the Padmanabhaswamy case revolved primarily around issues of external regulation.

4.1. Government Management of Religious Institutions, the Essential Practices Doctrine, and the Sabarimala Temple Dispute

Indian governments have a long history of interfering in Hindu temple affairs to ensure equal access to all castes. The first Indian ruler to do this was Maharaja Chithira Thirunal Balarama Varma, the princely state of Travancore’s young ruler. In 1936, Varma declared that no temple in Travancore could deny entry to Dalits, who were then more commonly called *avarnas* (“those without caste”) or *harijans* (“children of God,” Gandhi’s

neologism). At India's independence in 1947, the prohibition against denying Dalit access to public (as opposed to privately managed) temples became the law of the land, and there is broad if not universal support for it in contemporary India.

The issue of temple entry re-emerged more recently in the Sabarimala case. This time, however, the question was whether a Hindu temple could deny entry to women. For several centuries, women of child-bearing age (10–50) had been quasi-officially denied entry to the inner precincts (the *sanctum sanctorum*) of the temple in Sabarimala (in the state of Kerala), which is dedicated to the god, Ayyappan (or Ayyappa). Ayyappan, in Hindu mythology, is a celibate god, and therefore should not interact with women within this age range. The ban on women at the temple appears to have been unevenly imposed, but supporters of the ban on women's entry filed a Public Interest Litigation suit to have it made legally binding in 1990, after S. Chandrika, a former commissioner of the Devaswom Board (a state government office charged with administering Hindu religious affairs—see below for more) attended a rice-feeding ceremony for her granddaughter in the temple precincts. (Rice-feeding ceremonies mark a childhood transition to solid food, and are often celebrated at temples.) Chandrika was over 50, but some of her female relatives in attendance were within the prohibited age range.

Opponents of the ban on women's entry argued that it had never been uniformly applied, and that such a ban violated Articles 25 and 15 of the Indian Constitution. Article 25, discussed above, ensures religious freedom, while Article 15 prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth.¹¹ Opponents further argued that the ban transgressed upon Kerala's Hindu Places of Public Worship (Authorisation of Entry) Act, 1965, which—drafted primarily with Dalit exclusion in mind—makes provision to ensure “the entry of all classes and sections of Hindus into places of public worship” (Acedo 2018a, pp. 561–62).¹²

The Kerala High Court's decision in 1991 confirmed the legality of the ban, asserted that it did not violate Articles 15, Article 25, or Kerala's Hindu Places of Worship Act, and did so primarily on the grounds that there was “no restriction between one section and another section or between one class and another class among the Hindus,” because “the prohibition [was] only in respect of women of a particular age group and not women as a class.”¹³ Years later, in 2006, six female lawyers associated with the Indian Young Lawyers' Association petitioned India's Supreme Court to rule the ban unconstitutional. Finally, in September, 2018, in the midst of a great deal of public controversy, protests, and an unprecedented level of social media campaigning (*ibid.*, pp. 567–68), a five-judge bench of the Supreme Court determined that the ban violated constitutional assurances of religious freedom and gender equity, as well as Kerala's Hindu Places of Worship Act.

Almost immediately, however, the court took the unusual step of referring the matter to a larger bench (of at least seven judges) for review, folding within that review other issues deemed similar, such as the entry of Muslim women into various dargahs and mosques, the entry into Parsi (Zoroastrian) fire temples of Parsi women married to non-Parsis, the practice of female genital mutilation in some Indian Muslim communities, etc. Arguments have begun in that review, but a decision is still forthcoming. What is common to these various issues is the question of whether they constitute “essential practices” within their respective religions, which, under Articles 25 and 26 (which grants religious denominations freedom to manage their own affairs) of the Constitution would give them some limited protection from government interference, even if they constituted a violation of constitutional prohibitions against gender discrimination.

Understanding the dynamics of this and the Padmanabhaswamy case described below requires explanation of two interrelated issues: (1) the nature of governmental regulation of Hindu religious affairs, and (2) the “essential practices” doctrine. As indicated above, the Indian government has tended to see religious institutions, and particularly Hindu temples, as a kind of public endowment requiring government management. Government oversight of Hindu temples takes place primarily at the state level, through various boards and commissions. Among one of the most important functions of these boards and

commissions is to redistribute excess revenue from larger and more popular temples to smaller, less wealthy ones. Each state manages temple affairs differently, and southern states, like Kerala (where both the Sabarimala and Padmanabhaswamy temples are located), tend to regulate them more thoroughly than northern states. The regulation of Hindu temples began under British rule—much to the consternation of British evangelicals—but this chapter focuses on independent Indian administrative formulations. Since both the Sabarimala and Padmanabhaswamy temples are in Kerala, and because Kerala’s regulation of temple affairs is arguably more extensive than that of other states, Kerala provides a useful case study for exploring how temple regulation works in practice.

When it was created after the reorganization of Indian states in 1956, Kerala, with relatively broad public support, established five regional Devaswom (literally “Property of God,” but more figuratively, “temple”) Boards. These boards officially operate under a Minister of Devaswom Affairs, who is charged with overseeing the administration of around 1700 temples in the state. In reality, however, the regional Devaswom Boards have far greater influence over the affairs of temples within their geographic region. The Boards administer temples deemed “public” (which means they fall under government control, and are officially open to all), while “private” temples are owned and operated by families or trusts, and may serve limited constituencies (Acevedo 2014, p. 146). Members of the Devaswom boards are nominated by Hindus in the state government. They are powerful because of the vast sums of money they control, but they are beholden to the Kerala High Court, which oversees and conducts audits of their affairs. Temple properties theoretically belong to each temple’s presiding deity, a kind of legal fiction that ensures those assets are employed to further the deity’s (or, more realistically, the temple’s) interests. The Devaswom Boards work with and through the trustees of individual temples, and, somewhat less directly, with the priests associated with them. Controversies, when they emerge, often concern the division of labor and authority between the Devaswom Boards, on one hand, and, on the other, the temple priests and trustees, who often claim that Article 26 of the Constitution guarantees them the right to manage their own affairs (Acevedo 2018a, p. 559).

The “essential practices” doctrine was first articulated in the Supreme Court’s 1954 ruling in the Shirur Mutt case. In that case, the leader of a Hindu monastery in what is now the state of Karnataka (but was then still the state of Madras) filed suit to limit the power of Madras state government temple oversight committees (akin to Kerala’s Devaswom Boards) over his management of the monastery’s affairs. In court, the state defended its authority to regulate the secular activities of religious institutions, i.e., all activities that do not constitute an essential practice of religion. The court agreed, declaring that “what constitutes the *essential part* of a religion is primarily to be ascertained with reference to the doctrines of that religion itself” (ibid., p. 554).

The decision established precedent whereby practices deemed essential were beyond the purview of state regulation, while it at the same time legitimized government oversight of non-essential practices. The decision also stated clearly that the state should be highly deferential to the opinion of adherents, who should have “complete autonomy” (Sen 2007, p. 14) in establishing what constituted essential practice. However, subsequent decisions also quickly undermined the ideal of deference to adherents *and* came to rely more regularly on modern social norms than established scriptures and doctrines in the determination of what constituted an essential practice (ibid., viii, pp. 15–18). Essentially, the court’s preference for “rational” religion (over “superstition”), and its reform-minded, ameliorative approach to religion took precedence over its commitment to deference, neutrality, and religious freedom. Since religious belief and doctrine are malleable, and various scriptural sources within a single tradition can be divergent and even contradictory, the essential practices doctrine has, in reality, provided judges a great deal of latitude to exercise their impulse towards reform (Acevedo 2018a, p. 555; Mehta 2010, pp. 174–93).

The Sabarimala temple dispute constitutes one such case. In its 1991 decision in favor of the ban, the courts looked to temple authorities to determine what constituted essential

practice. The words of living priests and other authorities became particularly significant in this case because there were few ancient Sanskrit or vernacular texts to provide guidance. In the years between the 1991 decision and that in 2018, nothing much had changed in terms of the basic contours of the argument, and the centrality of the tensions between Article 15 of the constitution (prohibiting discrimination), and articles 25 and 26 (ensuring both individual and institutional religious freedom). In the 2018 decision, however, the reforming tendency of the Indian judiciary came to the fore.

In its decision, four of the five court justices signaled their willingness to *define* proper religion as inherently anti-discriminatory, declaring: “It is a universal truth that faith and religion do not countenance discrimination.” Then, striking down the ban, the court drew upon the essential practices doctrine to argue that “In no scenario [can it be said] that exclusion of women of any age group could be regarded as an essential practice of [the] Hindu religion and on the contrary, it is an essential part of the Hindu religion to allow Hindu women to enter into a temple . . .”¹⁴ While progressive and reform-minded Hindus cheered the verdict, Deepa Das Acevedo has pointed out the problematic implications of such a ruling, which essentially asserts “that any religious practice deemed to be discriminatory loses its status as a religious practice by virtue of being discriminatory” (Acevedo 2018b, p. 13). It is worth noting, by way of contrast, that Indian jurisprudence therefore runs in precisely the opposite direction of recent American decisions on similar affairs (such as in *Our Lady of Guadalupe School v. Morrissey-Berru*), which preserve the right of religious people to transgress, within their own religious environs, against otherwise universally applicable anti-discrimination law.

4.2. The Padmanabhaswamy Temple Dispute

If the Sabarimala case illuminates the contours of the essential practices doctrine in practice, the Padmanabhaswamy Temple dispute illustrates the tensions inherent in state management of institutional religious affairs. The Padmanabhaswamy Temple dispute has its roots in the close and symbiotic relationship that Indian rulers (especially but not exclusively Hindu rulers) had, before independence, traditionally cultivated with prominent temples under their jurisdiction. Such rulers would lavish endowments upon temples and pay respect to their presiding deities, sometimes even symbolically declaring that they ruled only as regents on behalf of the deities. In return, temple clergy and those under their control would confirm the legitimacy and/or divine nature of the ruler’s reign. Such was the nature of the relationship between the ruling family of Travancore (the princely state mentioned in the earlier discussion of temple entry) and the Padmanabhaswamy Temple.

When the princely state of Travancore acceded to India in 1949, the royal family was granted authority within a trust vested with the administration of the temple. The trust was directed by Maharajah Chithira Thirunal Balarama Varma—the very same one who had opened temples in his realm to Dalits—until his death in 1991, when the directorship was taken up by his younger brother, Uthradam Thirunal Marthanda Varma. Treated as a private temple, it was therefore *not* among the temples controlled by Kerala’s Devaswom boards. By all accounts, this arrangement functioned relatively well for many years.

Controversy erupted, however, when, in 2007, Marthanda Varma signaled his desire, as trustee of the Padmanabhaswamy Temple, to open its vaults in order to catalog and photograph its great wealth (received, in no small part, from his royal ancestors). Officially all parties in the dispute, including the younger Varma and other descendants of Travancore’s erstwhile rulers, accepted the notion that any objects of value held by the temple were owned by its presiding deity. But Varma muddied the waters, when, in an interview defending his desire to catalog the temple’s riches, he opined that the vaults held “the wealth that [his] family accumulated over several generations” (Emphasis added. Acevedo 2016, pp. 850–51, 855). The statement raised suspicions about his intentions, and, predictably, reports emerged alleging the royals had periodically made off with artifacts among the temple’s riches. But the incident also provoked sensationalized speculation about the value of the temple’s treasure, which included, inter alia, divine images and

elegant jewelry wrought in gold, silver, and precious stones, and coins from across the ancient and modern world. As part of the ensuing legal battles, the vaults were opened and cataloged, with some estimates of the treasure's value topping US \$13 billion.

Varma's actions provoked several temple devotees to file writ petitions and public interest litigation suits. These various suits, calling for greater government oversight of the temple's affairs, were clubbed together along with a suit filed by T.P. Sundara Rajan's as *T.P. Sundara Rajan vs. The State of Kerala*. The royal family opposed these calls for greater government oversight in their own suit, *Uthradam Thirunal vs. Union of India*. Since the covenant established between the state of Travancore and the government of India had vested temple authority in the hereditary rulers of Travancore, a key element in the debate was whether Marthanda Varma, who *would* have inherited the throne upon his brother's death if Travancore had not acceded to India, could properly be considered a *ruler* simply because he was the heir of the royal family (*ibid.*, pp. 852–53).

The Kerala High Court considered the suits together. In its 2011 decision, the Court determined that Marthanda Varma could not be considered a ruler in any proper sense, and that he and his family therefore did not retain trusteeship of the temple. Accordingly, the court ordered the Kerala state government to establish a trust to administer the temple, administer an inventory of the vaults, and provide police protection for the temple's wealth (*ibid.*, p. 853).

According to Acevedo, the decision, and public debate about it, focused on three interrelated issues: "who owned the treasure, who should administer the treasure, and in whose interests should the treasure be administered?" (*ibid.*, p. 855). Various social, political, and religious leaders weighed in on these issues. All parties essentially agreed that the temple's wealth belonged to its deity, but what did that mean in practice? Should it be used solely for temple maintenance? Or should it be used for some broader public good? What would it mean to serve the public good? Should the artifacts be displayed in a museum (which would also benefit the temple through entrance fees)? Should they be sold and used to fund a Hindu university? And who constituted the public? All citizens of Kerala, or Hindus only?

The High Court's decision established the duty of the government to administer public religious endowments for the purpose of ensuring that they were used in the best interests of devotees and in service of a more general public good. The decision also re-affirmed the notion that Hindu religious institutions *were in need of government oversight* (*ibid.*, pp. 863). That view, established already in colonial times, rankled many Hindus, particularly those not in agreement with the government's reformatory impulse or the fact that it has been more forcefully applied to Hinduism than India's minority religions.

It was for this reason that many cheered the Supreme Court of India, when, in July, 2020, it reversed the decision of the Kerala High Court. After a long and controversial study of the temple's wealth and management, the Supreme Court re-established the Travancore royal family as the proper trustee of the temple. In fact, though, very little changed. While Travancore royal family members retain their trusteeship and rights to conduct significant rituals at the temple, they still must do so in consultation with two separate external committees that include government officials. The first is a government administrative committee headed by a district judge of Thiruvananthapuram (the city in which the temple is located). This committee also includes the temple's chief priest and three additional members, one each nominated, respectively, by the Travancore royal family, the Kerala government, and the national culture ministry. The second is an advisory committee chaired by a retired Kerala High Court judge and also including an "eminent person" nominated by the royal family and a chartered accountant nominated by the chair. The accountant is responsible for the annual auditing of the temple's finances ([Choudhary 2020](#)). Ultimately, the decision does nothing to undermine the view that the government has a right and an obligation to manage temple affairs, which at least some Hindus do welcome, since there is some concern that temples, left to themselves, will be inefficiently or corruptly managed.

Still, many Hindus, particularly those of a more traditionalist bent, celebrated the decision as a victory over government intrusion into Hindu religious affairs. Support for the decision was particularly strong among those embracing the ideology of *Hindutva*, many of whom had portrayed the Kerala High Court's decision as an example of the state victimizing Hindus, and had fought in other contexts to rescue temples from what they perceive to be government intrusion, including recently at the famous temples of Jagannath and Nataraja (Choudhary 2019; Moodie 2018, chp. 2; Sen 2007, pp. 25–26). But as Pratap Bhanu Mehta has argued, since all possible managers of the temple and members of government administrative committees are and have been Hindu, and since the state that intervened in temple affairs did so with authority given to it by a Hindu-majority population, the question was never about non-Hindu interference in the affairs of the temple. It was merely about *which* Hindus would control it, and for what purposes (Mehta 2020).

5. Conclusions

Litigating the Limits of Religion, and Prospects for Common Cause

In the discussion above, the heuristic division of “minority” and “majority” concerns represents something of an oversimplification. On most of the issues discussed in this article, it is easy to find diverse opinions *within* both majority and minority communities. For example, while all Muslims may have reason for concern about the loss of Muslim religious freedom in Kashmir, many less evangelistic Christians are not terribly concerned about the restriction of proselytization and conversion (because they themselves have concerns about the aggressive evangelism of their coreligionists). Similarly, more progressive Hindus tend to be less concerned than more traditionalist Hindus about the judiciary's “ameliorative approach” to reforming religion, or about government management of religious affairs, which more progressive Hindus may consider necessary to ensure that religious institutions truly and efficiently serve the public good.

Furthermore, majority and minority opinion converges on a number of significant matters. For example, while the government has intervened most assertively in the management of Hindu institutional affairs, it has also interceded periodically in the management of minority religious institutions (most famously, perhaps, in the Haji Ali Dargah case, in which Indian courts forbade the exclusion of women from the inner sanctum of a Muslim mosque and shrine containing the tomb of a famous Sufi saint). Such management is therefore not exclusively a majority concern. Indeed, Hindus angered about government management of temples, Muslims outraged about the curtailing of Kashmiri's religious freedom, and Christians incensed about the legal and extra-legal circumscription of evangelism and conversion are all essentially concerned about state interference in religious affairs. There is therefore potential here for mutual understanding and the expression of common concern.

Another fascinatingly complex and cross-cutting issue is India's complex system of personal laws. While Article 44 of the Directive Principles of State Policy in India's Constitution requires the state to develop a Uniform Civil Code (UCC), in reality, successive Indian governments have failed to undo the colonial-era system of religion-specific personal laws governing matters of marriage, divorce, inheritance, and the guardianship and maintenance (after divorce) of women. Because of this, discrete personal laws for Parsis (Indian Zoroastrians), Muslims, Jews, Christians, and Hindus remain in effect, with Hindu law constituting, by default, the law for all those not governed by Parsi, Muslim, Jewish, or Christian law. On the one hand, the continued existence of these laws preserves a certain degree of freedom and autonomy for religious minorities. On the other hand—though it is complicated and not always the case (Menon 2014, p. 482)—the Hindu personal law code is perceived by many to ensure the rights and fair treatment of women better than the personal laws of minority religions. There is also regular controversy, within minority communities, about which individuals or institutions have the right and authority to represent them in discussions about personal law (Shankar 2018, p. 131).

The UCC controversy has therefore at times pitted advocates of minority religious freedom against advocates for gender justice within their own traditions, and particularly so since the 1990s, when leaders on the Hindu right began framing their support for the UCC on precisely these terms. For a time, this made strange bedfellows of the Hindu right and secular, Hindu, and non-Hindu Indian feminists, whose politics otherwise evinced a distinctly leftward inclination. More recently, however, feminists have become muted in their support for the UCC, in part because of their apprehension that what really motivates the Hindu right's support for the UCC is not a concern for women so much as a desire to further homogenize the nation in accordance with prevailing Hindu social norms, but also in part because of a recognition that certain aspects of the minority religious personal laws are more progressive than their equivalents in Hindu law (Menon 2014, pp. 481–82). While cases like this therefore have the potential to divide religious communities within themselves, they also generate the possibility of interfaith alliances.

There remains, however, a significant obstacle to the development of a broader Indian unity on matters of religious freedom. While the cases described in this article may appear to involve more technical questions about the appropriate level of state involvement in religious affairs, at a more fundamental level, the question being litigated is the definition of religion itself. The Indian Constitution's subordination of religious liberty to "public order [and] morality," and the judiciary's reforming, ameliorative approach to religion, signals the state's willingness, even obligation, to adjudicate not only what religion is, but also what it *should be*. The courts have done this in several significant ways.

First, since the 1990s, Indian justices have increasingly made a distinction between religion and *dharma*, arguing that it is the latter, not the former, that is protected by the Constitution. As Justice B.L. Hansaria put it, "religion . . . is comprised of rituals, customs, and dogmas surviving on the basis of fear and blind faith; whereas *dharma* encapsulates those great laws and disciplines that uphold, sustain, and ultimately lead humanity to the sublime heights of worldly and spiritual glory (Sen 2007, p. 27; 2010). This distinction is a typically Indian one, and echoes the tendency of many Hindus to speak of their tradition not as "Hinduism" or as "religion" but as *sanatana dharma* (eternal dharma), something prior to, different from, and superior to religion as it is manifest in particular dogmas and rituals.

Second, because *dharma*, by this definition, is beyond and prior/superior to religion, the distinctions of various religions are ultimately meaningless when judged by the standard of efficacy. All religions are flawed; all religions also have potential to "lead humanity to the sublime heights of worldly and spiritual glory" (to use Justice Hansaria's construction). If this is true, then proselytization is utterly misguided and disrespectful. If proselytization is misguided and disrespectful (and, moreover, likely to threaten "public order"), it may not constitute an "essential practice," and the state can ensure religious liberty *without ensuring the right to proselytize*. In turn, this helps explain the court's (ultimately self-censored) opinion in the Dara Singh case, discussed above, that "there is no justification for interfering in someone's belief . . . upon [the] flawed premise that one religion is better than the other." While some Indian Muslims and Christians may be able to reconcile themselves to such a view, the assertion that only *dharma* (not religion) is constitutionally protected, and that *dharma* is necessarily tolerant in a way that prohibits proselytization, tends to divide adherents of the Indic religions from what opponents label "foreign" religions like Christianity and Islam.

The force of the judicial shift described in the previous paragraphs has been compounded by decisions in several 1996 cases collectively referred to as the *Hindutva* cases. These cases considered whether it was illegal for politicians to use the language of *Hindutva* under section 123(3) of the Representation of the People Act, 1951, which prohibits election candidates from appealing to voters on the basis of religion. In these rulings, the Supreme Court determined that appeals based on the language of *Hindutva* were not illegal because both Hinduism and *Hindutva* referred not to religion in a typical sense of the term, but rather to a "way of life," a way of life that was, for all intents and purposes, equivalent to In-

dianness. Furthermore, the judges involved in these cases framed this *Hindutva*/Indianness as inherently all-encompassing and inclusive (of all religions), such that by definition it could not be partisan. What is particularly perplexing about these decisions is that just a few years earlier, in *Bommai v. Union of India* (1994), the courts had taken a significantly more negative view of the ideology of *Hindutva* (Shankar 2018, p. 130).

The rulings' portrayal of Hinduism and Indian culture drew inspiration from the kind of inclusive, tolerant religious perspective of India's secular forefathers (e.g., Nehru and Radhakrishnan). The decisions were also cheered by the political proponents of *Hindutva* and taken as a vindication of their view that the ideology of *Hindutva* was not in any way exclusionary. What India's early secularists and proponents of *Hindutva* have in common—despite their significant differences—is the desire to homogenize Hinduism (and India's religious landscape more generally) along the lines of this inclusive vision that understands all religions as spiritually efficacious (or potentially so) and therefore acceptable/desirable (Sen 2019, pp. 29–30).

The unresolved question in this vision is of course what to do with the religions (especially exclusivistic forms of Christianity and Islam) that reject its most fundamental premise. Whereas India's early secularist apologists (like Nehru and Radhakrishnan) adopted a more compromising posture with regard to such religions, today's proponents of *Hindutva* are more willing to use state policy to exclude and marginalize them. Such religions should be marginalized and excluded, from this perspective, for the sake of preserving the fundamentally inclusive nature of *Hindutva*/Indian culture (ibid.). So long as this tension remains within the formulation of Indian secularism and judicial conceptions of (desirable) religion, unity on matters of religious freedom will remain elusive.

Defining constitutionally protected religion as *dharma*, and *dharma* as inherently tolerant and non-exclusive, tends to pit adherents of Indic religions against adherents of exclusionary forms of Christianity and Islam (though always inconsistently and unevenly so). Conversely, a third way in which the judiciary has tended to define religion—as inherently “rational” and “modern”—tends to pit those who engage in popular religious practices against their more philosophically inclined coreligionists. Remember Justice Hansaria's assertion, above, that religion survives “on the basis of fear and blind faith.” *Dharma*, by contrast (in this way of thinking), is something more lofty, more moral, more rational. The presumption that only rational religion is protected by the Indian Constitution leads the courts to declare popular and “superstitious” practices non-essential, and therefore available for government regulation. “American courts have usually tried to avoid sitting in judgement on ‘religious error’ or ‘religious truth,’” Ronojoy Sen writes, whereas the “Indian Supreme Court has travelled an opposite path, seeking to cleanse Hinduism of what it reads as superstition and providing it with a modernist and rationalist definition of religious error and religious truth” (Sen 2010, p. 86; Shankar 2018). A relevant case is currently before the Supreme Court, and has to do with a Kerala state law that prohibits the religious sacrifice of animals. Opponents of the law have appealed to the Supreme Court to have it struck down. The opponents, Shakti worshippers, believe animal sacrifice is necessary (i.e., an “essential practice”) to ensure the power and pleasure of their Goddess.¹⁵

In his monumental *Genealogies of Religion*, Talal Asad made two arguments that at first blush appear contradictory, so much so that they have periodically led to confusion and divergent interpretations of his work. The first is that there can be no universal, transhistorically and transculturally valid definition of religion, since all definitions of religion—and even the notion that religion can be clearly distinguished from things like ethnicity and politics and defined as a transhistorical and transcultural essence (Asad 1993, p. 28)—are parochial, the “historical product of discursive processes” (ibid., p. 29) guided according to the interests of those with the power to do so. The second argument is that one particular parochial definition, a “modern, privatized Christian one” that “emphasizes the priority of belief as a state of mind” (ibid.), which is taken to self-evidently recommend or even demand the confinement of religion through secular political formations like those

prevailing in the modern West, is now regnant and quasi-universal in modern society, having been progressively more thoroughly imposed through processes of colonization, neo-colonialization, and globalization, which have served and continue to serve the interests of Western elites. These arguments are contradictory only if one fails to recognize that the first is a theoretical one drawn from historical analysis, while the second is a statement about the distinctive dynamics of our particular historical moment.

Though he does not doubt the progressive diffusion and global influence of modern Western conceptions of religion and their attendant political formations, Robert W. Hefner, in his article for this special issue, criticizes Asad for overstating their ubiquity and hegemony. The criticism is justified, and in fact we can properly understand the peculiar dynamics of institutional religious freedom in India only if we allow Asad's first argument to chasten the second. It is undeniable that modern Western conceptions of religion (and the politics they recommend) have a certain cachet among both liberal, Western-leaning secularists and religious minorities in India, particularly Christians (Bauman 2020). It is equally true, however, that these conceptions are not universal in large part because they do not align with the historical or contemporary self-understandings of those Westerners tend to call "Hindu" (but who, for related reasons articulated above, often prefer alternative terms for both "religion" and "Hinduism"). My argument here is not necessarily that *scholars* cannot construct a transhistorically or transculturally valid definition of religion—though, full disclosure, I remain with Asad on this point, in large part because of my engagement with Hindus and Hinduism—but rather that at the level of *popular* discourse, that is, at the level of what Taylor (2003) calls the "social imaginary," there exist in India multiple and competing conceptions of religion that recommend, give rise to, and create tension among divergent and sometimes contradictory political arrangements.

Similar tensions exist at the core of all secular legal frameworks. Far from being neutral in matters of religion, all secularisms must, to preserve themselves, determine the nature and limits of acceptable (and therefore legal) religion. At a minimum, for example, most secular governments prohibit the development and imposition of theocratic forms of religion. The Indian case is therefore different not so much in substance as in degree and style, i.e., in the distinctive ways in which the inherent tensions of *Indian* secular governance are manifest. As the cases described above indicate, one distinctive element of the Indian situation is the judiciary's willingness and sense of obligation to bend the trajectory of religious reform in the direction of what is considered modern, rational, tolerant, and inclusive. In this way, the Indian courts are more explicitly engaged (in comparison with some of their counterparts in other secular contexts) in defining religion. It is clear that such a project is inherently fraught, however, if we accept Asad's claim that all definitions of religion are tinged by their peculiar historical and cultural circumstances, and if we keep in mind the fact that contemporary India is situated, more than many other nations, at the crossroads of divergent global religious visions. It may be that the Indian judiciary's more activist approach to such matters is precisely what is necessary to forge greater consensus around a distinctively Indian conception of religion that will at some point decisively displace or neutralize the modern, Western, privatized one Asad considers globally ascendant. That Western conception remains influential in India, however—though not influential enough to entirely displace other more local conceptions—and it is therefore just as likely that consensus and solidarity on matters of institutional religious freedom will continue to be possible only episodically, as particular cases and issues generate unique and ephemeral interreligious constellations of solidarity and alliance.

Funding: Work on this paper was made possible by a grant from the John Templeton Foundation to the Religious Freedom Institute for a three-year research project on the Freedom of Religious Institutions in Society.

Conflicts of Interest: The authors declare no conflict of interest. The funders had no role in the design of the study; in the collection, analyses, or interpretation of data; in the writing of the manuscript, or in the decision to publish the results.

Notes

- 1 In the article, I use the term “proselytization” to denote evangelism with the explicit intent to convert another person to one’s faith.
- 2 The other nine were Iraq, Syria, Israel, Nigeria, Libya, Egypt, Pakistan, the Central African Republic, and Sri Lanka.
- 3 Along with Burma, China, Eritrea, Iran, Nigeria, North Korea, Pakistan, Russia, Saudi Arabia, Syria, Tajikistan, Turkmenistan, and Vietnam.
- 4 The mosque had been torn down by Hindu nationalists in 1992 because of their claims (which the Supreme Court recently more or less accepted), that it had been built under the direction of the Muslim Mughal emperor, Babar, on the ruins of a temple marking the birthplace of the Hindu God, Ram.
- 5 The decision is available at: https://fcronline.nic.in/Home/PDF_Doc/fc_revision_notice_15122016.pdf (accessed on 11 August 2020).
- 6 The Odisha Act is available at: <https://cjp.org.in/wp-content/uploads/2017/12/ORISSA-FREEDOM-OF-RELIGION-ACT-1967.pdf> (accessed on 11 August 2020). The Madhya Pradesh Act is available at: <http://www.bareactslive.com/MP/MP218.HTM> (accessed on 11 August 2020).
- 7 The full ruling can be accessed at: https://indiankanoon.org/doc/1308071/?__cf_chl_jschl_tk__=07d8454a56f2dde4ffec98fa8f94de686aec9272-1597167222-0-AWXw1obDpn4L1frderuyFyBcj8TbtPHeZqUx0X6POdKml9eSwW6MABhc1qxiG63hCC-JKJjNp3OGIjMy6gydUYDfZ2s9u7c1fPzTEW6qbGJXMm2P7xXpj040GWawi_0HcR5xh-AQ7Y_ck_kpvi-UAE-Wq0qlsmrBGiW9v1cnX8WRLXhN6zD3ZMaLOS7FT0P0oCdkksb4kxVfNMP_LhbCEnvKeP4f_pj4pD8AYhTyA0WLnSW9vQOWDxQwio_DnB9W0-RMXHLsr_p7AzRLUaNpMrgQVcz-kP0JjzoymksSsZg6q8WxgQlB9jN3-o34igysxgl0Vp5OlnIQDz6SdFyDEdt1oXTQ4tSrex4FFoQ (accessed on 11 August 2020).
- 8 The law can be accessed at: https://www.indiacode.nic.in/bitstream/123456789/4743/1/657_2_2017.pdf (accessed on 11 August 2020).
- 9 I have not named the lawyers with whom I have spoken on these matters for the purposes of preserving their anonymity.
- 10 FBI statistics are available at: <https://www.fbi.gov/investigate/civil-rights/hate-crimes> (accessed on 11 August 2020).
- 11 The full text is available at: https://indiankanoon.org/doc/609295/?__cf_chl_jschl_tk__=76678c268dfd09e43a8e7ac7ec287d6962521bfe-1597415231-0-Af7vc-iTIFKDGOTKJ1qe1iw1B0WZN5uub0ACbcfgBXkKNdxBmE4FZm-um2loq-DmZgRi4S6yoq11bg9whK3Ost7sfZ2bFPri9O3zpzRZ2zaa5kYqJHcOyMG8_rgUO6i_ZG9E4meSn-bueRWnNe7yclw4_NjAWZDRBDmUG8MVXtMuggcmeNefO5nhIB_TeywPEftPuIo9XZqOzORbiVwBHw_2R7OA1Co4LGGv0xDN334QplzQ6xaIqwa5foqOD9a4ONboLTZA6B650XHe7VvyGqeynjYhL4StQvs9ADLCKtqLSFmluj1XL0lCYdmWc20_surh0xMmlcwwi6r7P8_ny4t9Gtw7eB1AwHBA0N (accessed on 14 August 2020).
- 12 The Act is available at: <http://www.bareactslive.com/KER/ker080.htm> (accessed on 14 August 2020).
- 13 The case is known as Mahendran vs. TDB. The full ruling is available at: <https://indiankanoon.org/docfragment/1915943/?formInput=PUBLIC%20WORSHIP> (accessed on 14 August 2020).
- 14 Significant excerpts of the decision in Indian Young Lawyers Association vs. The State of Kerala (2018) can be found at: https://indiankanoon.org/docfragment/163639357/?big=3&formInput=thanthri%20%20doctypes:%20supremecourt&__cf_chl_jschl_tk__=4d59f95c6b1d46117e1d7e81d73bb7f34f9fbf4-1597432188-0-ArNcVD-xaogfkGq-k7l6M8vZ0YfpkYZS6LgXioqRapWxV-RiAFTnZpCEjJcoFd-WMqWScKPxHMt0p-3GnXOF3NU5MY-zBS09d6eAwy9LutBgl-t4-sAdyegzppuX_EPo0h4hNwj61pnm6gbVjIPN8_6QKqzfsxfPfcLxNqiqv1bvFjwHxKQ0GDtsymi4glXITEqtbLfvZCru6pPh5mai-jJhpiOMWl4H8wmT2WR7aucbE9xpqrCce73mtLcXr56N_cuLT27cwY5EVvNrr311iaCwO8PZFM75B_Tfr2D5MXM2CK-663zzytdTByeKLqe-N-SqQLdAAZJ5cRMHvbiwjet8MF6FORsNDR-m71rXEvxfK8PkN2ha895rUS1tE8zCGYi2WA4rt9Fkg4xu1rTYBI3OjyFsLDdQuRNakSWmxcQBrx59N7JtXebkFHuEukQ (accessed on 14 August 2020).
- 15 The Kerala law in question is the Kerala Animals and Bird Sacrifices Prohibition Act of 1968. See (Legal Correspondent 2020).

References

- Acevedo, Deepa Das. 2014. Secularism in the Indian Context. *Law & Social Inquiry* 38: 138–67.
- Acevedo, Deepa Das. 2016. Divine Sovereignty, Indian Property Law, and the Dispute over the Padmanabhaswamy Temple. *Modern Asian Studies* 50: 841–65. [CrossRef]
- Acevedo, Deepa Das. 2018a. Gods’ Homes, Men’s Courts, Women’s Rights. *International Journal of Constitutional Law* 16: 552–73. [CrossRef]
- Acevedo, Deepa Das. 2018b. Pause for Thought: Supreme Court’s Verdict on Sabarimala. *Economic & Political Weekly* 53: 12–15.
- Adcock, Cassie S. 2010. Sacred Cows and Secular History: Cow Protection Debates in Colonial North India. *Comparative Studies of South Asia, Africa and the Middle East* 30: 297–311. [CrossRef]
- Adcock, Cassie S. 2016. Violence, Passion, and the Law: A Brief History of Section 295a and Its Antecedents. *Journal of the American Academy of Religion* 84: 337–51. [CrossRef]
- Adcock, Cassie S. 2018. Cow Protection and Minority Rights in India: Reassessing Religious Freedom. *Asian Affairs* 19: 340–54. [CrossRef]
- Asad, Talal. 1993. *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam*. Baltimore: Johns Hopkins University Press.
- Bauman, Chad M. 2008. Postcolonial Anxiety and Anti-Conversion Sentiment in the Report of the Christian Missionary Activities Enquiry Committee. *International Journal of Hindu Studies* 12: 181–213. [CrossRef]

- Bauman, Chad M. 2010. Identity, Conversion and Violence: Dalits, Adivasis and the 2007–2008 Riots in Orissa. In *Margins of Faith: Dalit and Tribal Christianity in India*. Edited by Rowena Robinson and Joseph Marianus Kujur. Washington, DC: Sage, pp. 263–90.
- Bauman, Chad M. 2013a. Does the Divine Physician Have an Unfair Advantage? The Politics of Conversion in Twentieth-Century India. In *Asia in the Making of Christianity: Agency, Conversion, and Indigeneity*. Edited by Jonathan Seitz and Richard Fox Young. Leiden: Brill, pp. 297–321.
- Bauman, Chad M. 2013b. Hindu-Christian Conflict in India: Globalization, Conversion, and the Coterminal Castes and Tribes. *Journal of Asian Studies* 72: 633–53. [CrossRef]
- Bauman, Chad M. 2016. Faith and Foreign Affairs in India: Legal Ambiguity, Selective Xenophobia, and anti-Minority Violence. *The Review of Faith & International Affairs* 14: 31–39. [CrossRef]
- Bauman, Chad M. 2020. *Anti-Christian Violence in India: History, Theory, Interpretation*. Ithaca: Cornell University Press.
- Bauman, Chad, and Tamara Leech. 2011. Political Competition, Relative Deprivation, and Perceived Threat: A Research Note on anti-Christian Violence in India. *Ethnic and Racial Studies* 35: 2195–216. [CrossRef]
- Bauman, Chad, and James Ponniah. 2016. Christianity and Freedom in India: Colonialism, Communalism, Caste, and Violence. In *Christianity and Freedom, Volume 2: Contemporary Perspectives*. Edited by Allen D. Hertzke and Timothy Shah. Cambridge: Cambridge University Press, pp. 222–53.
- Bauman, Chad, and James Ponniah. 2017. Christian Responses to Discrimination and Violence in India and Sri Lanka: Avoidance, Advocacy, and Interfaith Engagement. *The Review of Faith & International Affairs* 15: 68–78.
- Bhargava, Rajeev. 1998. Introduction. In *Secularism and Its Critics*. Edited by Rajeev Bhargava. New Delhi: Oxford University Press, pp. 1–30.
- Bhargava, Rajeev. 2005. India's Secular Constitution. In *India's Living Constitution: Ideas, Practices, Controversies*. Edited by Zoya Hasan, E. Sridharan and R. Sudarshan. London: Anthem Press, pp. 105–33.
- Bhattacharya, Deya. 2018. FCRA Licenses of 20,000 NGOs Cancelled: Act Being Used as a Weapon to Silence Organisations. *Firstpost*. October 26. Available online: <https://www.firstpost.com/india/fcra-licences-of-20000-ngos-cancelled-act-being-used-as-weapon-to-silence-organisations-3181560.html> (accessed on 9 March 2020).
- Chari, Mridula. 2017a. Forced Detention: How Hindutva Groups in MP Targeted Children Heading to Mumbai for Bible Study. *Scroll.In*. November 9. Available online: <https://scroll.in/article/857187/forced-separation-how-hindutva-groups-in-mp-targetted-children-heading-to-mumbai-for-bible-study> (accessed on 11 August 2020).
- Chari, Mridula. 2017b. 'They Called Us Traitors': In MP, a Teenager is among 10 People Charged with Forced Conversions. *Scroll.In*. November 10. Available online: <https://scroll.in/article/857306/they-called-us-traitors-in-mp-a-teenager-is-among-ten-people-charged-with-forced-conversions> (accessed on 11 August 2020).
- Choudhary, Amit Anand. 2019. Temples Should be Managed by Devotees, not Government: SC. *Times of India*. April 8. Available online: <https://timesofindia.indiatimes.com/india/temples-should-be-managed-by-devotees-not-government-sc/articleshow/68781876.cms> (accessed on 17 August 2020).
- Choudhary, Amit Anand. 2020. Travancore Royals Get Mangerial Rights over Padmanabha Temple. *Times of India*. July 14. Available online: <https://timesofindia.indiatimes.com/india/travancore-royals-get-mangerial-right-over-padmanabha-temple/articleshow/76948913.cms> (accessed on 17 August 2020).
- Claerhout, Sarah. 2010. "Losing My Religion": Conversion, Secularism and Religious Freedom in India. Ph.D. dissertation, Ghent University, Ghent, Belgium.
- Claerhout, Sarah. 2014. Gandhi, Conversion and the Equality of Religions: More Experiments with Truth. *Numen* 61: 53–82. [CrossRef]
- Claerhout, Sarah, and Jakob de Roover. 2019. Religious Freedom and the Limits of Propagation: Conversion in the Constituent Assembly of India. *Religions* 10: 157. [CrossRef]
- Dhavan, Rajeev. 2001. The Road to Xanadu: India's Quest for Secularism. In *Religion and Personal Law in Secular India: A Call to Judgment*. Edited by Gerald J. Larson. Bloomington: Indiana University Press, pp. 301–22.
- Embree, Ainslie T. 1990. *Utopias in Conflict*. Berkeley: University of California Press.
- Engineer, Irfan, Dabhade Neha, and Suraj Nair. 2020. Mob Lynching in 2019-Continuing Expression of Hegemony. *Secular Perspective*. February 16–19. Available online: <https://csss-islam.com/secular-perspective/mob-lynching-in-2019-continuing-expression-of-hegemony/> (accessed on 10 August 2020).
- India Today Web Desk. 2020. Revocation of Article 370 Single Biggest Achievement of Modi Govt: Mood of the Nation. *India Today*. August 7. Available online: <https://www.indiatoday.in/mood-of-the-nation/story/revocation-of-article-370-single-biggest-achievement-of-modi-govt-mood-of-the-nation-1708959-2020-08-07> (accessed on 10 August 2020).
- Jacobsohn, Gary Jeffrey. 2009. *The Wheel of Law: India's Secularism in Comparative Constitutional Context*. Princeton: Princeton University Press.
- Kiai, Maina. 2016. *Analysis on International Law, Standards and Principles Applicable to the Foreign Contributions Regulation Act 2010 and Foreign Contributions Regulation Rules 2011*. Geneva: United Nations Human Rights Office of the High Commissioner.
- Legal Correspondent. 2020. Supreme Court to Examine Kerala Act on Animal, Bird Sacrifices. *The Hindu*. July 16. Available online: <https://www.thehindu.com/news/national/kerala/sc-to-examine-kerala-act-on-animal-bird-sacrifices/article32103227.ece> (accessed on 18 August 2020).
- Mehta, Pratap Bhanu. 2010. India: The Politics of Religious Reform and Conflict. In *Religion, the Enlightenment, and the New Global Order*. Edited by John M. Owen and J. Judd Owen. New York: Columbia University Press, pp. 174–93.

- Mehta, Pratap Bhanu. 2019a. Modi Pushes India into Revolt: A New Law Upends What it Means to be Indian. *Foreign Affairs*. December 20. Available online: <https://www.foreignaffairs.com/articles/india/2019-12-20/modi-pushes-india-revolt> (accessed on 10 March 2020).
- Mehta, Pratap Bhanu. 2019b. Winning Kashmir and Losing India: How Modi is Gutting Indian Democracy. *Foreign Affairs*. September 20. Available online: <https://www.foreignaffairs.com/articles/asia/2019-09-20/winning-kashmir-and-losing-india> (accessed on 10 March 2020).
- Mehta, Pratap Bhanu. 2020. PB Mehta Writes: Padmanabhaswamy Case Turns on Specific Facts, but There Are Wider Political Ramifications. *The Indian Express*. July 21. Available online: <https://indianexpress.com/article/opinion/columns/padmanabhaswamy-case-kerala-pb-mehta-6515406/#:~:text=The%20Supreme%20Court%20held%20that,finding%20turned%20on%20two%20claims.&text=The%20findings%20in%20the%20Padmanabhaswamy,facts%20specific%20to%20the%20case> (accessed on 17 August 2020).
- Menon, Nivedita. 2014. A Uniform Civil Code in India: The State of the Debate in 2014. *Feminist Studies* 40: 480–86.
- Moodie, Deonnie. 2018. *The Making of a Modern Temple and a Hindu City*. New York: Oxford University Press.
- Nair, Neeti. 2013. Beyond the “Communal” 1920s: The Problem of Intention, Legislative Pragmatism, and the Making of Section 295a of the Indian Penal Code. *Indian Economic and Social History Review* 50: 317–40. [CrossRef]
- Pew Research Center. 2020. In 2018, Government Restrictions on Religion Reach Highest Level Globally in More Than a Decade. Available online: https://www.pewforum.org/wp-content/uploads/sites/7/2020/11/PF_11.10.20_religious_restrictions_full_report.pdf (accessed on 24 May 2021).
- Press Trust of India. 2016. FCRA Licenses of 20,000 NGOs Cancelled. *Times of India*. December 27. Available online: <https://timesofindia.indiatimes.com/india/fcra-licences-of-20000-ngos-cancelled/articleshow/56203438.cms> (accessed on 11 August 2020).
- Rao, Smitha. 2011. Saffronisation of the Holy Cow: Unearthing Silent Communalism. *Economic and Political Weekly* 46: 80–87.
- Richards, Ian Douglas. 2016. Poles Apart: The Debate on Religious Conversion in Post-Independence India. Ph.D. dissertation, University of Toronto, Toronto, ON, Canada.
- Saha, Pradip K. 2020. Why NGOs Want to Help but Can't. *The Morning Context*. May 28. Available online: <https://themorningcontext.com/chaos/why-ngos-want-to-help-but-cant> (accessed on 29 May 2021).
- Saiya, Nilay, and Stuti Manchanda. 2020. Anti-Conversion Laws and Violent Christian Persecution in the States of India: A Quantitative Analysis. *Ethnicities* 20: 587–607. [CrossRef]
- Scroll Staff. 2019. This Is What Kashmir Looks Like after 61 Days of ‘Normalcy’. *Scroll.In*. October 4. Available online: <https://scroll.in/article/939269/this-is-what-kashmir-looks-like-after-61-days-of-normalcy> (accessed on 10 August 2020).
- Sen, Ronojoy. 2007. *Legalizing Religion: The Indian Supreme Court and Secularism. Volume 30: Policy Studies*. Washington, DC: The East-West Center.
- Sen, Ronojoy. 2010. The Indian Supreme Court and the Quest for a “Rational” Hinduism. *South Asian History and Culture* 1: 86–104. [CrossRef]
- Sen, Ronojoy. 2019. *Articles of Faith: Religion, Secularism, and the Indian Supreme Court*. New Delhi: Oxford University Press.
- Shankar, Shylashri. 2018. Secularity and Hinduism's Imaginaries in India. In *A Secular Age beyond the West*. Edited by Mirjam Künkler, John Madeley and Sjlashri Shankar. Cambridge: Cambridge University Press, pp. 128–51.
- Sinha, Bhadra. 2011. SC Takes Back Conversion Remark in Staines Case. *Hindustan Times*. January 25. Available online: <https://www.hindustantimes.com/delhi/sc-takes-back-conversion-remark-in-staines-case/story-WeFdeDep2brkLpgzQ2RCgO.html> (accessed on 13 August 2020).
- Smith, Samuel. 2019. 8 Christians Arrested in Hindu Mob's Brutal Crackdown on House Churches: Report. *ChristianPost*. September 28. Available online: <https://www.christianpost.com/news/8-christians-arrested-hindu-mob-crackdown-house-churches.html> (accessed on 17 April 2021).
- Stepan, Alfred. 2001. Religion, Democracy, and the ‘Twin Tolerations’. *Journal of Democracy* 11: 37–57. [CrossRef]
- Stepan, Alfred. 2012. Tunisia's Transition and the Twin Tolerations. *Journal of Democracy* 23: 89–102. [CrossRef]
- Taylor, Charles. 2003. *Modern Social Imaginaries*. Durham: Duke University Press.
- United States Commission on International Religious Freedom. 2020. Annual Report 2020. Available online: https://www.uscirf.gov/sites/default/files/USCIRF%202020%20Annual%20Report_Final_42920.pdf (accessed on 24 May 2021).
- Wilkes, Tommy, and Roli Srivastava. 2017. Protests Held across India after Attacks against Muslims. *Reuters*. June 28. Available online: <https://in.reuters.com/article/india-protests/protests-held-across-india-after-attacks-against-muslims-idINKBN19J2C3> (accessed on 9 March 2019).
- Zargar, Safwat. 2019. In Kashmir, A Quiet Crackdown—On Mosques and Clerics. *Scroll.In*. September 6. Available online: <https://scroll.in/article/936380/in-kashmir-a-quiet-crackdown-on-mosques-and-clerics> (accessed on 10 August 2020).

Article

India's Other Religious Freedom Problems

Timothy S. Shah

Politics Department, University of Dallas, Irving, TX 75062, USA; tshah@udallas.edu

Abstract: There is no doubt that India is far from perfect when it comes to religious freedom. Indeed, India's religious freedom problems have become an increasing focus of scholarly and policy attention. However, almost all of this attention is directed at one particular subset of religious freedom problems—i.e., restrictions imposed on the religious freedom of India's minority communities, and particularly Muslims and Christians. Meanwhile, serious religious freedom challenges experienced by members of India's Hindu majority population tend to be ignored. In this article: (1) I first describe the religious freedom situation in India as a complex terrain that requires a multi-dimensional mapping. (2) I then survey existing, influential studies of the religious freedom situation in India and identify their tendency to generate flat, one-dimensional mappings, and their consequent failure to analyze restrictions on the religious freedom of India's Hindus, including both Hindu individuals and institutions. (3) I briefly analyze India's regime of "Hindu Erastianism"—i.e., its extensive system of state regulation and control of Hindu institutions—and suggest how and why this regime amounts to a direct attack on core features of institutional religious freedom. (4) I conclude by briefly suggesting that the whole range of India's religious freedom problems—including its "other", less discussed problems—can be traced to a longstanding and destructive pattern of ideological polarization that owes as much to an uncompromising statist secularism as to Hindu nationalism. The existence of this now deeply ingrained pattern bodes ill for improvements in India's religious freedom situation in the short term, and suggests that it is the country's public culture, rather than its political balance of power, that must change if the world's largest democracy is to enjoy greater religious freedom and tolerance in the future.

Citation: Shah, Timothy S.. 2021. India's Other Religious Freedom Problems. *Religions* 12: 490. <https://doi.org/10.3390/rel12070490>

Academic Editor: Roy C. Amore

Received: 20 April 2021
Accepted: 25 June 2021
Published: 30 June 2021

Publisher's Note: MDPI stays neutral with regard to jurisdictional claims in published maps and institutional affiliations.



Copyright: © 2021 by the author. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

Keywords: India; religious freedom; religious restrictions; institutional religious freedom; religious autonomy; Erastianism; secularism; Jawaharlal Nehru; Hinduism; Hindu nationalism

1. Introduction

There is no doubt that India, soon to be the world's most populous country, is far from perfect when it comes to religious freedom circa 2021. Indeed, as elaborated below, India's religious freedom problems have become an increasing focus of scholarly and policy attention. However, almost all of this attention is directed at one particular subset of religious freedom problems—i.e., restrictions imposed on the religious freedom of India's minority communities, and particularly Muslims and Christians, whether by state or non-state actors. Meanwhile, another and entirely distinct subset of religious freedom challenges is almost universally ignored, particularly in public and policy-related discussions of India. This subset is the wide range of serious religious freedom challenges and restrictions experienced by members of India's Hindu majority population.

Consider one illustrative instance. In 2018, the Indian Supreme Court intervened in a remarkably assertive way in the internal affairs of a major Hindu temple. This particular Hindu temple, the Sabarimala Temple in the southwestern state of Kerala, is devoted to a specific and (to non-Hindus) lesser-known deity, Lord Ayappa, a youthful male god known for his asceticism and especially for his celibacy. To honor the deity's virtues, the temple traditionally prohibited entry by women of menstrual age (i.e., aged between 10 and 50). This has not been because of a horror of menstruation but because of a desire to maintain a respectful distance between a young male deity consecrated to celibacy and what (at the

risk of indelicacy) may be termed occasions of temptation—i.e., the presence of women of reproductive age presumed to be sexually active or eligible for sexual activity. Also out of respect for Lord Ayappa’s chastity, men who visit Sabarimala are expected to take their own vow of celibacy before and after their pilgrimage (a vow male pilgrims reportedly take seriously).

Despite the sincerity and fervor of the visitors to Sabarimala—which in pre-COVID years saw around 50 million pilgrims a year, making it one of the most popular religious pilgrimage sites in the world—and despite the fact that Sabarimala is the only “Ayappan” temple (among dozens of such temples in India) that bans entry by women of reproductive age, India’s highest court ruled against the temple and its assertions of religious freedom rights under the Indian constitution. While many of the world’s constitutions lack provisions that clearly safeguard the rights of religious organizations, protecting only the religious freedom and conscience rights of individuals, the Constitution of India *prima facie* provides explicit protections for the autonomy of religious institutions and denominations (particularly through Article 26, while also explicitly safeguarding the right of all individual persons, not just citizens, to profess, practice, and propagate religion through Article 25). Notwithstanding all of this, the Supreme Court issued a judgment that was anything but deferential to the autonomy and internal affairs of the Sabarimala Temple. The Court not only ruled that Sabarimala’s strictures violated the fundamental rights and dignity of women but also declared—in a remarkable assumption of quasi-magisterial theological authority—that the temple’s revered and longstanding practices did not reflect or belong to the core or “essential practices” of Hinduism.¹ (Strikingly, The only woman judge on the bench, Justice Indu Malhotra, offered a sweeping and compelling dissent.²)

In effect, therefore, the Court went beyond balancing competing rights from the perspective of the Indian Constitution to reinterpreting the very meaning and credibility of Sabarimala’s practices—and therefore the weight of Sabarimala’s religious freedom rights—from a religious perspective internal to Hinduism. In doing so, the Court raised profound questions and issues concerning the state of religious freedom in India—questions and issues often ignored or marginalized in standard religious freedom reports. Was the Court’s intervention an isolated instance of judicial and more broadly state intervention in what are ostensibly the internal affairs and practices of religious institutions? Or is it part of a wider pattern? If it represents a wider pattern, what kind of pattern does it represent? For example, is the Supreme Court more likely to institute a kind of supervisory and even quasi-Erastian theological oversight and control over Hindu organizations than non-Hindu ones? If so, why would such a pattern of downgrading (and thus failing even to weigh and place in the balance) the religious freedom rights of India’s majority Hindu community—and particularly the autonomy of Hindu organizations and institutions—not be better known?

The ensemble of religious restrictions exemplified by the Indian Supreme Court’s Sabarimala verdict is so serious and so neglected that it amounts to what might reasonably be termed India’s *other* religious freedom problems. Fortunately, a focus on the freedom of religious institutions—the theme of this special issue of *Religions*—helps to cast a bright light on this other, widely ignored cluster of religious freedom challenges. For, as we shall see, many of the most sweeping and severe limitations on the religious freedom of the Hindu community in India are in the form of systematic government restrictions on Hindu religious institutions, including Hindu temples such as Sabarimala.

In what follows, in which I provide a line of analysis that complements the rich treatment of many of the same issues Chad Bauman offers in this same special issue of *Religions* (Bauman 2021):

- (1) I first describe the religious freedom situation in India as a complex terrain or landscape—a terrain that is at least three-dimensional—and therefore one that requires a multi-dimensional mapping. In the process, I identify the distinct dimensions any adequate account or mapping of the religious freedom situation in India (and by extension other large and complex societies) must illuminate, and in doing so

highlight the significance of the *institutional dimension of religious freedom* as well as note the importance of attending to the religious freedom conditions of majority as well as minority populations.

- (2) I then survey existing, influential studies of the religious freedom situation in India and identify their tendency to generate flat, one-dimensional mappings, and their consequent failure to analyze or even notice restrictions on the religious freedom of India's Hindus (including Hindu individuals and institutions). In this section, I also offer an explanation of why these mappings generally fail to focus on religious restrictions affecting Hindus in India.
- (3) I proceed to provide no more than a sketch of India's remarkable and neglected regime of Erastianism—i.e., its extensive system of state regulation and control of Hindu institutions. I indicate how and why this Erastian regime of state control over Hindu institutions creates and legitimates sweeping temple-state entanglements that appear to be in significant tension with India's own professed secularism.³ More importantly for my purposes, I suggest how and why this regime amounts to a direct attack on core features of institutional religious freedom.
- (4) I conclude by briefly suggesting that the whole range of India's religious freedom problems—including its "other", less discussed problems—can be traced to a long-standing and destructive pattern of ideological polarization that owes as much to an uncompromising statist secularism as to Hindu nationalism. The existence of what I will characterize as a now deeply ingrained pattern bodes ill for improvements in India's religious freedom situation in the short term. This pattern also suggests that it is the country's public culture, rather than its political balance of power, that must change if the world's largest democracy is to enjoy greater religious freedom and tolerance in the future.

2. Core Desiderata of Any Complete Religious Freedom Mapping

Any useful mapping of religious freedom in India must begin with a proper understanding of the **"what" of religious freedom**. It must identify the nature of religious freedom, as well as the core features and dimensions of religious freedom that are most important and in need of measurement. What exactly is religious freedom? How should religious freedom be conceptualized and operationalized? At a minimum, religious freedom contains both a freedom dimension and an equality dimension. In terms of the freedom dimension, a satisfactory mapping of religious freedom should make sure to measure the extent to which people are free to embrace and express whatever beliefs about religion (including unorthodox beliefs or beliefs that are hostile to traditional religious claims) are most in accord with the dictates of their own conscience, without direct, coercive interference by government or non-government actors. In terms of equality, it should measure the extent to which people are free from arbitrary discrimination or unequal treatment because of their beliefs about religion, because such discrimination is unjust and incompatible with human dignity—the proximate ground of religious freedom—even when it does not directly block or limit one's freedom of choice or practice in religious matters.

The equality dimension of religious freedom requires that people be free from arbitrary discrimination or unequal treatment because of their religious beliefs or identities. Violation of religious equality—as through the infliction of systematic discrimination on particular individuals or groups merely because of their religious beliefs or identities, or the creation of a climate of hatred or intolerance of certain people because of religion—is unjust and illegitimate even when it does not directly block or limit one's free exercise of religion.⁴ One reason is that arbitrary discrimination or unequal treatment is incompatible with the demands of human dignity, which all human beings equally share by virtue of their common humanity. For example, the Universal Declaration of Human Rights begins with a reference to the "inherent dignity" of all human beings as the implicit foundation of human equality and human rights; the Basic Law for the Federal Republic of Germany makes its cornerstone proposition that "[h]uman dignity shall be inviolable" the basis of

the immediately following acknowledgment that all human beings possess “inviolable and inalienable human rights” (Articles 1.1–1.2); and the Declaration on Religious Liberty of the Second Vatican Council of the Roman Catholic Church declares that “the right to religious freedom has its foundation in the very dignity of the human person as this dignity is known through the revealed word of God and by reason itself” (Section 2). Another reason is that a healthy and dynamic social and political pluralism—in which people of all religious perspectives can draw on their distinct convictions and unique “spiritual capital” both to contribute to the common good and to enrich the perspectives of their fellow citizens—is possible only within a framework of mutual respect and basic equality.

A second and closely related desideratum of an adequate religious freedom mapping is that it addresses the **“who” of religious freedom**. Which kinds of agents and entities enjoy (or fail to enjoy) the key dimensions of religious freedom? Who are the subjects or bearers of the right to religious freedom—understood as combining the right to religious free exercise and the right to religious equality? Some analysts tend to see religious freedom only in terms of the rights of minority groups, neglecting the fact that the majority also possesses religious freedom rights, and that, in many countries (including India, as we shall see), majority communities experience significant religious restrictions. In addition, many analysts ignore the evidence that state-sponsored religious discrimination as well as violent religious persecution by non-state actors tend to victimize women in ways that are quantitatively and qualitatively more systematic and vicious than they do men.⁵ Likewise, does religious freedom belong only to individuals qua individuals, or does it also belong in an irreducible way to communities and institutions?⁶

In fact, the irreducibly social nature of human beings requires that communities per se also be treated as the proper subjects or bearers of the right to religious freedom. Indeed, both the Universal Declaration of Human Rights and the Indian Constitution explicitly recognize that not only individuals but also religious communities or groups bear the right to religious freedom and that they too rightfully enjoy immunity from undue interference and equality of treatment in religious matters. According to the Universal Declaration of Human Rights (1948), Article 18, “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or *in community with others* and in public or private, to manifest his religion or belief in teaching, practice, worship and observance”. The Constitution of the Republic of India devotes a distinct article, Article 26, to safeguarding the freedom of “every religious denomination” to “establish and maintain institutions for religious and charitable purposes” and to “manage its own affairs in matters of religion”. In addition, Article 30 defines the right of minorities, including religious minorities, to establish and administer their own educational institutions. Moreover, despite the ways in which individual and corporate religious freedom are related and mutually reinforcing, history and contemporary global reality suggest that they are distinct—with one sometimes receiving basic protection while the other sometimes suffers restriction, even in the same context—and thus each requires deliberate analytical attention and measurement. In many contexts, including in India, individuals may enjoy significant freedom to practice their faith, especially in private, while at the same time religious communities and institutions—as we shall see—may face significant restrictions in their public religious exercise and activities, such as in the formation and funding of faith-based non-governmental organizations for charitable purposes, or in the administration of religious institutions, such as Hindu temples.

Because different kinds of agents—such as individuals and communities, minorities and majorities, women and men—bear the right to religious freedom but often experience or enjoy this right in very different ways and to very different degrees, a good mapping of religious freedom must go beyond a binary analysis of the state of religious freedom in a given context like India—e.g., as being one of “high” religious restriction or persecution versus “low” restriction or persecution—to a differentiated analysis that probes the extent to which these different agents may enjoy (or fail to enjoy) the right to religious freedom to different degrees.

Third, a satisfactory mapping of India’s religious freedom environment must also incorporate the **“how” of religious freedom**. Insofar as religious freedom is being undermined, how is it being undermined, and insofar as it is being protected, how is it being protected? By what predominant mechanisms—governmental, social, or the two in interaction—is religious freedom being limited, whether for people in general or particular groups? Agents playing an important role in shaping the religious freedom environment in India include a variety of formal government agents, including the police and state-level authorities, but numerous non-state actors.

An important contribution of the Pew Research Center’s annual reporting on global religious restrictions—the groundbreaking methodology for which was first developed by the sociologist Brian Grim, under the supervision of his doctoral supervisor, Roger Finke, at Pennsylvania State University—is that it distinguishes between government restrictions on religion, on one hand, and social restrictions on religion (or religion-related “hostilities” emanating from non-state actors), on the other. A great service of Grim’s methodology and Pew’s report is that they have made this distinction central in religious freedom research and analysis by both scholars and advocates, whereas it had often been obscured or elided in previous work.

The “what”, “who”, and “how” dimensions of religious freedom noted thus far constitute *the core ontology of religious freedom*—i.e., the three-dimensional contours of what religious freedom is, what it looks like, and how it is experienced. This three-dimensional ontology may be likened to the bedrock features or substratum of a physical landscape, and can be represented using the following matrix or table (Table 1):

Table 1. The WHAT, WHO and HOW of Religious Freedom: Core Dimensions.

WHAT: Freedom and Equality → WHO: Individuals and Institutions ↓	Freedom		Equality	
	HOW: Govt vs. Society		HOW: Govt vs. Society	
	↓	↓	↓	↓
Individuals	Gov’t and Law: Individuals are free of governmental/legal interference to embrace and express religious beliefs of their choice	Society: Individuals are free of social interference to embrace and express religious beliefs of their choice	Gov’t and Law: Individuals enjoy equality (non-discrimination) vis-à-vis law and government actors	Society: Individuals enjoy equality (non-discrimination) vis-à-vis society and non-state actors
		↓	↓	↓
Institutions	Gov’t and Law: Institutions are free of governmental/legal interference to embrace and express religious beliefs of their choice	Society: Institutions are free of social interference to embrace and express religious beliefs of their choice	Gov’t and Law: Institutions enjoy equality (non-discrimination) vis-à-vis law and government actors	Society: Institutions enjoy equality (non-discrimination) vis-à-vis society and non-state actors

Fourth, a religious freedom mapping must also address the **“when” or time frame of religious freedom**. On one hand, it is crucial that a good mapping be sustained over time in order to yield a historical picture of the trajectory of religious freedom in India. Such longitudinal information is essential because it provides a dynamic “motion picture” of the condition of religious freedom, indicating where it has come from and where it appears to be headed. On the other hand, a good religious freedom mapping must also provide an accurate and up-to-date “snap shot” of India’s current religious freedom environment if it is going to provide a useful road map and guide for effective advocacy in the here and now. The religious freedom environment in India today is not what it was ten

years ago, and, in fact, not what it was ten months ago (due to recent watershed events such as the passage of the Citizenship Amendment Act in December 2019 and the religious violence in Delhi in February 2020). If road maps, topographical maps, and political maps need regular updating lest they become obsolete, any religious freedom mapping for a society as large and dynamic as India must be built to reflect significant new developments.

Fifth, a good religious freedom mapping must also address **the geography or “where” of religious freedom**. It should provide information and insight concerning local or regional variations (including at the state and district level) in religious freedom protections and restrictions. In a homogeneous society (e.g., Japan), a geography of religious freedom that maps local variation is less important because it is likely to exhibit little variety in religious freedom levels from region to region. India, however, is less a nation-state than a “state-nation”—a polity that *forged* a nation from enormous cultural, linguistic, and religious diversity, rather than a polity that *emerged* from a pre-existing ethno-religious unity (Stepan et al. 2012). More a continent than a country, not only in its diversity but also in the size of its population and vastness of its geography, India contains a sprawling internal variety of faith traditions and practices, culture, history, and levels and experiences of religious pluralism. Furthermore, the Republic of India is a federal union consisting of 29 states and 8 union territories, each of which exercises significant authority on matters of law and order closely related to religious affairs. In particular, India’s federal system accords state governments exclusive jurisdiction over law enforcement and the maintenance of order, which, among other things, limits the central government’s authority to deal with state-level abuses of religious freedom.⁷ The result is that India does not exhibit diversity so much as layer on layer of diversity, and these layers, in turn, create a multiplicity of “religious freedom regimes” from state to state.

Sixth, a satisfactory mapping must also **address the “why” of religious freedom**. If the “how” of religious freedom identifies the proximate sources, agents, and mechanisms of religious freedom variation, the “why” provides insight into deeper causes. What attitudes, beliefs, forces, and trends might constitute the deeper, wider, and more ultimate causes—and thus provide a higher level of explanation? By way of analogy, a comprehensive, useful, and up-to-date weather map goes beyond providing a check list of current or imminent weather conditions, such as temperature and precipitation, or indicating what storm is striking which location right now. Instead, it provides a literal map that visually represents larger dynamics—like ocean currents, air patterns, or storm systems—and in so doing helps explain current conditions as well as helps predict what new conditions one might expect in the short and long term.

Likewise, even when it remains on an empirical (as opposed to an interpretive or hermeneutical) plane, a comprehensive and useful religious freedom mapping must go beyond the country’s static religious freedom “facts” (such as the number of incidents of religious persecution) to a framework of interpretation capable of explaining and predicting wider and deeper dynamics. It is these dynamics that help account for the country’s current and expected religious freedom conditions. Furthermore, this framework should focus not just on negative patterns that threaten “stormy weather”, but positive forces and dynamics that have the potential to improve the religious freedom climate. A close-up is helpful and necessary, but so is a wide-angle perspective that includes critical historical background.⁸

Seventh, **a useful mapping of religious freedom must pass the “whence” test**. To be useful and effective, a mapping of religious freedom in India must come from a transparent, credible and reliable source, and, furthermore, a source that enjoys basic respect and credibility, not least in India itself. If a religious freedom mapping is to be truly practical and useful—including as a road map and instrument of persuasion that Indians themselves might use with their fellow citizens to advocate for greater religious freedom—then Indians must be convinced that it comes from a source that is reasonably trustworthy (or, better yet, a multitude of credible and corroborating sources) and not associated with an agenda that is implacably hostile to the interests of India or to major groups (such as the majority Hindu community) in India.

3. The Gap in Existing Mappings of Religious Freedom in India: Restrictions on Hindus and the Freedom of Hindu Institutions

3.1. A Mapping of the Mappings

There are several notable efforts to provide insights into some of these issues and dimensions of religious freedom in India today. Broadly speaking, current work touching on the primary dimensions of religious freedom falls into five main groupings, with the first grouping including studies conducted by Western governments. The most significant and respected of these are the annual reports by the US State Department's Office of International Religious Freedom and the US Commission on International Religious Freedom. These reports have appeared every year since 1999.⁹

A second is mappings or studies by researchers affiliated with universities, research centers, or non-partisan think tanks outside India and mostly in the West. While some of these projects do not make religious freedom a primary or direct focus, they have produced data that have important implications for understanding the dynamics, causes, and consequences of restrictions on religious freedom in contemporary India. The most significant of these studies are the Pew Research Center's annual report on Global Religious Restrictions (which have appeared every year since 2009) ([Pew Research Center 2020](#)); the Religion and State (RAS) research project directed by political scientist Jonathan Fox at Israel's Bar-Ilan University (covering all the world's countries between 1990 and 2014);¹⁰ the Varshney-Wilkinson Dataset on Hindu-Muslim Violence in India, 1950–1995;¹¹ the large body of qualitative and quantitative work on Indian religious violence by Butler University scholar Chad Bauman; the large body of empirical work and statistical analysis on religious freedom and religious violence around the world (including in India) by Singapore-based political scientist Nilay Saiya; the Religion and Economic Empowerment Project (REEP) formerly based at Baylor University and now housed at the Archbridge Institute in Washington, D.C., directed by economist Rebecca Shah;¹² a USAID-funded research project at the United States Institute of Peace on the political and economic consequences of global variations in religious freedom (with significant attention on India) directed by Jason Klocek;¹³ and, finally, research initiatives on the nexus of law and religion conducted by Brigham Young University's International Center for Law and Religion Studies, including its restricted-access *Encyclopedia of Law and Religion* (published by E.J. Brill)¹⁴ and its open-access (and fairly regularly updated) database, ReligLaw, which provides basic information on the legal frameworks governing religion and religious freedom for every country in the world.¹⁵

A third grouping is studies and mappings produced by researchers affiliated with the Indian government or with Indian universities, research centers, and think tanks (whether purely private or government-related). These studies include the significant empirical work on issues of religious conversion and religious violence by individual Indian scholars such as Rowena Robinson, Sarbeswar Sahoo, and Ashis Nandy, as well as large-scale opinion surveys conducted by the Centre for the Study of Developing Societies (CSDS) in New Delhi. Particularly noteworthy CSDS surveys are the National Election Study (NES), conducted concurrently with India's national parliamentary elections and therefore every five years (since 1967), and the State of Democracy in South Asia surveys (conducted in 2005–2006 and 2012–2013, covering not only India but also Bangladesh, Pakistan, Nepal and Sri Lanka). Though not focused on religious freedom per se, these large-N studies (the nationwide sample for the 2004 NES was 27,189 respondents) contain abundant information and insight on related issues, including data on religious identification, commitment, and intensity of religious practice, as well as how these and other religious variables correlate with political variables, such as tolerance and support for democracy.¹⁶

Another grouping includes mappings and studies by Western-based advocacy organizations, including the granular (though tending to be crisis-driven and episodic) reports on anti-minority religious violence compiled by Human Rights Watch, the respected New York-based human rights NGO; annual reports focused exclusively on the persecution of Christians by the evangelical group, Open Doors International (ODI), and the Catholic

group, Aid to the Church in Need (ACN); and analysis of the religious freedom landscape and major trends as they affect members of both majority and minority communities in India conducted over the years by the US-based Religious Freedom Project (RFP) at Georgetown University and its successor organization, the Religious Freedom Institute (RFI), particularly through its South and Southeast Asia Action Team based in Bangalore.

A final grouping includes the work of India-based advocacy organizations, several of which produce useful reports on religious freedom or closely related issues. Perhaps the premier example is the Centre for the Study of Society and Secularism (CSSS), founded by the late Asghar Ali Engineer, the distinguished Indian Muslim activist and scholar, in the immediate aftermath of the destruction of the Babri Masjid by Hindutva cadres in December 1992. Now led by Engineer's son, Irfan Engineer, CSSS provides the most thorough annual accounting of Indian "communal" violence available, based on reports in leading Indian daily newspapers—a service that is especially valuable given that the comparable Varshney–Wilkinson dataset has not been updated since 1995.¹⁷ Two other sets of advocacy organizations reporting on religious freedom issues and religion-related violence are the Centre for Equity Studies and its subsidiary, the Misaal Foundation, which produce periodic reports on violence inflicted on India's minority communities, particularly Muslims and Christians; and a consortium of Christian organizations—particularly the Evangelical Fellowship of India (EFI), the United Christian Forum (UCF), and Alliance Defending Freedom-India (ADF-India)—that publishes an annual report as well as a regularly updated mapping of anti-Christian violence throughout India, called "MapViolence".¹⁸

3.2. What the Mappings Do Tell Us

Though there are good reasons to think that the picture of religious freedom that emerges from these studies may be skewed and distorted in several different ways because of a prevailing narrowness of focus or limited methodologies (on which more below), there is little doubt that they converge on some significant and inarguable conclusions, with the most central one being that at least some of India's citizens are experiencing serious and growing challenges to their religious freedom. Perhaps most tellingly in this regard, the latest Pew Global Religious Restrictions Report—which was released in November 2020, but covers the year 2018—gave India *the highest score for social or society-based restrictions on religion in the world (a 9.6 on a 10-point index)*. Astonishingly, this makes India's level of "grassroots" religious persecution, or persecution "from below", higher than the level in countries with notoriously intense sectarian violence such as Syria, Iraq, and Pakistan (Pew Research Center 2020). While there is reason to take these figures with a pinch of salt, as we shall see, they are an indicator—even if imperfect—of the fact that some Indians acting of their own accord inflict remarkably high levels of informal (i.e., non-state) religious violence and persecution on fellow Indians.

A second fact that emerges from the available mass of studies is a clear finding concerning the trajectory of India's problem of "popular persecution". Socially generated religious restrictions, or religious restrictions from below, have been chronically high in India for decades.¹⁹ The data strongly indicate that intense religious persecution from below has been a chronic and pervasive feature of Indian society since the 1990s (if not the late 1960s), and is thus not a mere function of Narendra Modi's post-2014 dominance of national politics. For example, according to Pew, both India's social hostilities index (SHI) score and government restrictions index (GRI) score have remained at stubbornly high levels ever since 2007, the first year for which Pew tracked global religious restrictions. Even then—in the third year of what was ultimately an unbroken ten-year period of Congress-led rule in New Delhi—India's GRI score was in the "high" range, at 4.8, and its SHI score in the "very high" range, at 8.8. After a couple of years of BJP dominance, India's scores were only slightly higher: 5.1 for GRI and 9.7 for SHI in 2016, and 5.4 for GRI and 9.5 for SHI in 2017, as already noted (Pew Research Center 2019). In short, especially when it comes to popular or non-state persecution, India has been at Himalaya-level heights for a long time.

Third, available studies of religious restrictions and religious violence strongly suggest that their incidence and severity are subject to significant regional variation. One failing of the available body of studies is that too few of them track religious restrictions and religious violence by state or region, as we will discuss at greater length below, despite the enormous responsibility and power of Indian state governments vis-à-vis religious affairs and law and order. However, available state-wise information suggests that the most serious non-state or social religious restrictions and violence are concentrated in a relatively small number of northern, western, and central Indian states, and particularly in Uttar Pradesh, Rajasthan, Maharashtra, Chhattisgarh, Madhya Pradesh, and Jharkhand—often collectively known as India’s “cow belt”, i.e., the country’s Hindi-speaking and somewhat more ethnically and linguistically homogeneous and conservative heartland.

For example, of the 25 communal riots occurring in the country in 2019 as recorded by the Centre for the Study of Society and Secularism (CSSS), 17 took place in four northern or western states—Uttar Pradesh, Maharashtra, Madhya Pradesh, and Rajasthan. The analysis of cow-related vigilantism conducted by Human Rights Watch found a similar geography of violence, with Uttar Pradesh, Rajasthan, Haryana, and Jharkhand seeing the largest concentration of cases (Engineer et al. 2020). Interestingly, anti-Christian violence shows a similar pattern, though with a twist. From 2011 to mid-2020, the United Christian Forum and the Religious Liberty Commission of the Evangelical Fellowship of India verified 1676 incidents of anti-Christian intimidation, harassment, or violence. In total, 846 or 50% of these incidents occurred in just the five states of Uttar Pradesh, Chhattisgarh, Madhya Pradesh, Jharkhand, and Maharashtra, with Uttar Pradesh and Chhattisgarh seeing particularly large numbers (with 303 and 248 incidents, respectively). Another 161 incidents—10% of the national total—occurred in the four northern and central states of Odisha, Rajasthan, Haryana, and Bihar. The twist with anti-Christian violence is that two south Indian states also saw numerous incidents: Tamil Nadu, with 232 incidents (almost as many as in Chhattisgarh), and Karnataka, with 140 incidents (more than in Madhya Pradesh). Along with Andhra Pradesh, which also saw a significant number (51), these southern Indian states accounted for about a quarter of anti-Christian incidents between 2011 and mid-2020.²⁰ At the broadest level, however, the violent harassment of religious minorities by non-state actors is clearly far from uniformly spread across the Indian Union but is rather most acute in a relatively small number of northern and central states, with Uttar Pradesh consistently seeing the largest number of incidents in almost every category.

A fourth and final fact is that the available studies yield little clear consensus concerning the root causes (the “Why”) of religious freedom violations in India. Of course, one should be skeptical of any monocausal explanatory proposals that purport to name a single dominant source or cause of India’s ills when it comes to religious restrictions and religious violence. Dynamics as large and complex as religious freedom violations in a vast country of 1.3 billion people are never the result of a single, simple cause. In terms of the search for causes, it is important to note that there are two distinct approaches to causal explanation: agent-centered and structure-centered. Both are important and valuable. We hinted at the importance of both approaches when we noted in our enumeration of the eight religious freedom “desiderata” that good religious mappings should, among other things, help us grasp both the How and the Why of religious freedom: they should tell us something about the agents and methods whereby religious freedom is restricted or protected (the “How”) as well as something about the underlying causes, systems, and rationales that provide a deeper, structural explanation of why these agents are restricting or protecting religious freedom (the “Why”).

Overall, it is fair to say that available mappings of religious freedom in India provide rich and textured insight into much of the “How”, but somewhat less clarity concerning the “Why”. Why do some particular actors, whether they belong to non-state groups or to government structures, appear to be so intent on restricting the religious freedom of minority communities?

One common, popular explanation we can safely discount is an essentialist or primordialist explanation that attributes Hindu-nationalist violence to deep-seated features of Hinduism or religious fanaticism. In other words, so the essentialist hypothesis proposes, as some Hindus have become more “extreme” or “fundamentalist” in their religious beliefs and practices, they have become more extreme and authoritarian in their political attitudes and behavior. In fact, as Yogendra Yadav, Alfred Stepan, and Juan Linz pointed out, data from the National Election Study and the State of Democracy in South Asia Survey we mentioned earlier directly contradict this causal hypothesis. For the 2004 National Election Study, Yadav, Stepan, and Linz constructed an index of religious intensity to determine if growing religious intensity correlates with “growing undemocratic attitudes and practices”. It turns out that for Hindus as well as other religious groups they studied (Muslims, Sikhs, and Christians) the “exact opposite” is true. Specifically, “[f]or all four major religions in India, for each increase in religious intensity, there is an increase in support for democracy” (Stepan 2011, p. 136; the emphasis is in the original). Broadly confirming and updating these findings, but in a way even more directly relevant to the issue of religious freedom, the Religion and Economic Empowerment Project (REEP) directed by Rebecca Shah surveyed nearly 10,000 individuals in India and Sri Lanka between 2017 and 2019 and found that Hindus with higher self-reported levels of religious commitment and practice (based on several distinct metrics) were more likely to be tolerant of people from other religious communities than Hindus with lower levels of religiosity. The same basic causal finding—that higher religiosity correlates with higher religious tolerance—holds for almost every religious community sampled, including Muslims, Sikhs, and Protestants.²¹

If religion or religiosity per se is not the cause of religious conflict and persecution in contemporary India, what about other explanations? Space does not permit in-depth exploration, but it is worth simply noting that several of the scholars and studies noted above offer explanations of the drivers of religious violence and religious persecution that are plausible and in some cases powerful, and that merit further exploration. Ashutosh Varshney, using the Varshney–Wilkinson dataset, argues that a leading explanation of Hindu–Muslim violence in particular is the breakdown of inter-ethnic or inter-religious associations—what Robert Putnam calls “bridging social capital”, or social networks that draw otherwise separate communities into cooperative relationships and that take the edge off of otherwise rigid and exclusive identities.²² Contrary to Varshney’s Tocquevillian stress on the importance of voluntary inter-religious associations, Stephen Wilkinson, using the same dataset, proposes what might be considered a Machiavellian explanation—namely, that anti-minority religious violence is a deliberate strategy employed by Hindu-nationalist politicians to communalize the Indian electorate and increase the vote share of the BJP (Wilkinson 2006). Though Wilkinson’s methods and conclusions have been sharply criticized, including by Varshney, and though Bauman and Leech have provided evidence that the occurrence of anti-Christian violence in particular states tends to *reduce* support for the BJP in subsequent elections (Bauman and Leech 2012, pp. 2195–216), a recent analysis of the Varshney–Wilkinson dataset has found that Hindu–Muslim riots occurring in the year preceding an election increase the vote share of the Bharatiya Janata Party by at least 5 percentage points, suggesting that the provocation of religious violence is a “rational” political strategy for the BJP, and thus perhaps explains the rising incidence of religious violence concurrent with the BJP’s political ascendancy (Iyer and Shrivastava 2016).

A social-science explanation of a similar ilk is what might be called a Malthusian or “demography-made-me-do-it” approach to explaining India’s growing problem of religious violence. Several scholars have argued that India’s increasingly skewed sex ratio as a consequence of widespread sex-select abortion—around 950 women to 1000 men, or worse, in many parts of north India—creates a “bare branches” security problem. That is, tens of millions of young Indian men, without any possibility of marrying, and in many cases with little hope of gainful employment, are increasingly angry, frustrated, and ready to be recruited into violent causes of varying sorts, including extremist religious ones. This bare-branches problem, which is far more acute among Hindus than Muslims, could

help explain the growth in Hindu-extremist anti-minority religious violence from below, particularly in India's north-central cow belt where gender ratios are especially skewed (Hudson and Boer 2005).

In a less reductive and ultimately more persuasive approach, Bauman argues that any causal explanation of the trajectory and intensity of India's religious violence and religious freedom violations must take seriously the timing of the rise of Hindu-nationalist political mobilization and campaigns against religious minorities. These efforts, and all the violence they unleashed, only took off around 1990–1991, when the collapse of India's patron state, the Soviet Union, forced the country's leaders to liberalize the economy and open itself up to global trade and exchange. The result was a dramatic and unforeseen transformation—and disorientation—of India's cultural and political center of gravity. Among other things, Bauman notes, the dizzying effects of liberalization and globalization generated a heightened sense of existential insecurity among many members of India's Hindu majority community. With the influences of Western-backed secular modernity flooding into India at an accelerating pace, many members of the Hindu-nationalist movement began to go to war against groups inside India that seemed appropriate (and convenient) proxies for a secular modernity too diffuse to battle directly—particularly the Christian community and its embrace of a more voluntaristic and individualistic understanding of religion of a piece with secular modernity. Bauman's nuanced, historically contextualized, and constructivist account of the causes of anti-minority violence in India—particularly anti-Christian violence—constitutes an essential piece of the explanatory puzzle.²³

3.3. *The Invisibility of Hindus and Hindu Institutions in Existing Mappings*

What can be said, objectively and critically, about this array of reports and mappings in terms of their quality, scope, comprehensiveness, relevance, and credibility, as well as their most significant lacunae? Space does not permit a comprehensive accounting of the high and low points of each study we have surveyed with respect to all eight of the religious freedom desiderata we identified earlier. Several broad patterns readily emerge, however, with the first being that it is abundantly clear that available religious freedom mappings overwhelmingly focus on the direct restriction and persecution half of the “what” of religious freedom to the neglect of the discrimination and inequality half. Yet anecdotal evidence—along with some direct and credible testimony—suggests that vast areas of Indian life are rife with systematic and severe religion-based discrimination. The systematic underrepresentation of religious minorities (particularly Muslims, it seems) appears to be particularly severe in the Indian military, security services, intelligence services, police, and administrative and civil service.²⁴ At the same time, in many cases, religious discrimination is tightly bound up with caste-based discrimination, and often victimizes Hindus of Dalit or lower-caste backgrounds (effectively excluding them from Hindu temples, for example, even though such bans on temple entry are unconstitutional and illegal). Yet most available studies—including Pew and the reports of most advocacy organizations—neglect or altogether ignore the crucial issue of religion-based discrimination in society and economic life in favor of the easier-to-measure and more attention-grabbing incidents of religious “restriction”, “persecution”, and “violence”.

Second, when it comes to the “who” of religious freedom, it appears that most studies of religious freedom in India focus overwhelmingly on genderless individuals within religious minority communities as the most relevant or important subjects and bearers of the right to religious freedom. When we say “genderless”, we mean simply that even where the religious persecution and violence perpetrated against individuals is described in great empirical and analytical detail, almost no studies pay attention to the ways in which women and men may experience religious persecution in different ways, to different degrees, or with different consequences. While the deliberate targeting of women's bodies in the Gujarat pogrom of 2002 was a major theme in some studies of that horrific episode, few studies since have undertaken any systematic effort to ask whether and how women may be subject to particular forms of religious restriction or religious discrimination across

India as a whole. A partial exception here is Rebecca Shah's Religion and Economic Empowerment Project (REEP), which deliberately focuses on the religious lives of poor Dalit women. Shah's work illuminates how women in particular exercise the freedom of religion, what the experience of religious free exercise means to them, and the particular ways religious freedom can serve as a social and developmental "force multiplier" for them in contexts in which they are otherwise shunted to the margins and lack voice and agency (Shah 2016, pp. 176–93).

Another way in which the "who" of religious freedom is treated with a remarkable lack of precision and appropriate disaggregation is with respect to religious institutions. An overwhelming tendency of religious freedom studies, on India and in general, is to focus on individuals and to neglect institutions and communities. To a remarkable degree, even a highly sophisticated and influential study such as Pew's annual Global Religious Restrictions Report, in both its government restrictions index and its social hostilities index, is explicitly and repeatedly focused on the impact of religious restrictions on "individuals". Because the Pew report is so influential and widely cited, including on India, its systematic failure to attend to the importance of religious institutions in its analysis of religious restrictions warrants further discussion.

3.4. *The Invisibility of Religious Institutions in Pew's Global Religious Restrictions Analysis*

The Pew Research Center is a self-described "nonpartisan fact tank" that seeks to inform the general public about global issues, attitudes and trends. Beginning in 2009, Pew has released an annual report on "Global Restrictions on Religion". Pew's regularly updated analysis of global religious restrictions is based on a data-coding project that uses ideas and methods originally developed by the sociologist of religion and former Pew Research Center senior researcher Brian J. Grim. These ideas and methods, in turn, build on a methodology that Grim and Professor Roger Finke developed at the Pennsylvania State University's Association of Religion Data Archives (ARDA). According to Pew, "The goal was to devise quantifiable, objective and transparent measures of the extent to which governments and societal groups impinge on the practice of religion" (Pew Research Center n.d.). The project therefore seeks to measure two types of restrictions around the world: *government restrictions on religion* and *social hostilities involving religion*. It uses an index for government restrictions and an index for religion-related social hostilities to rate nearly 200 countries and self-governing territories.

The Government Restrictions Index (GRI) is based on 20 indicators of ways in which national and local governments restrict religion, including coercively. The indicators for government restrictions, which are in the form of questions, include items such as:

- Does any level of government interfere with worship or other religious practices?
- Is public preaching by religious groups limited by any level of government?
- Is proselytizing limited by any level of government?
- Is converting from one religion to another limited by any level of government?
- Is religious literature or broadcasting limited by any level of government?
- Are foreign missionaries allowed to operate?
- Is the wearing of religious symbols, such as head coverings for women and facial hair for men, regulated by law or by any level of government?
- Was there harassment or intimidation of religious groups by any level of government?²⁵

The Social Hostilities Index (SHI) is based on 13 indicators of ways in which non-state groups and individuals may infringe on religious beliefs and practices. These acts or incidents of religion-related hostility include religiously biased crimes, mob violence, and efforts to prevent religious groups from growing or operating. The indicators for social hostilities involving religion, which are also in the form of questions, include:

- Has there been any harassment or intimidation of religious groups by social groups motivated by religious hatred or bias?

- Has there been any destruction of personal or religious property motivated by religious hatred or bias?
- Have there been any detentions or abductions motivated by religious hatred or bias?
- Was there mob violence related to religion?
- Were there acts of sectarian or communal violence between religious groups?
- Were religion-related terrorist groups active in the country?
- Was there a religion-related war or armed conflict in the country?

For any given country, a wide range of sources is used to answer these questions, including country constitutions or basic laws, U.S. State Department annual reports on International Religious Freedom, U.S. Commission on International Religious Freedom annual reports, U.N. Special Rapporteur on Freedom of Religion or Belief reports, Human Rights Watch topical reports, and International Crisis Group country reports.

It is notable that Pew's main source, however, has been the U.S. State Department's annual report on International Religious Freedom. This remarkably detailed document, containing an entry on every nation and self-governing territory in the world with the exception of the United States, appears in the middle of any given calendar year and reports on the religious freedom situation in the areas it covers through the end of the previous calendar year (i.e., the 2017 report covers calendar year 2016).²⁶ The fact that the State Department report, partly by virtue of its detail and global comprehensiveness, is one of Pew's main sources generates additional lag time for the appearance of Pew's report. For example, the report Pew published on global religious restrictions in 2017 relies on the 2016 U.S. State Department annual report on International Religious Freedom, which covered the global religious freedom situation through 2015.

What, then, does this massive effort reveal about the state and trajectory of institutional religious freedom across the world's countries? While there is little question that Pew's Global Restrictions on Religion project has contributed enormously to our general understanding of the state and trajectory of global religious restrictions and global religious freedom, making it possible to pursue quantitative research and analysis of unprecedented depth and sophistication, it appears that institutional religious freedom is left out of most of Pew's indicators of government and social restrictions. Even on a generous reading, only three of Pew's 20 indicators of government restrictions on religion address some aspect of institutional religious freedom. These indicators are: GRI Question 16, "Does any level of government formally ban any religious group?"; GRI Question 17, "Were there instances when the national government attempted to eliminate an entire religious group's presence in the country?"; and GRI Question 18, "Does any level of government ask religious groups to register for any reason, including to be eligible for benefits such as tax exemption?"

This is a generous reading because in fact only one of these questions—GRI Question 18—directly, explicitly, and unequivocally addresses an issue of institutional religious freedom, i.e., the issue of a religious community's freedom to acquire formal entity status through some kind of registration, which is a crucial aspect of institutional religious freedom. However, it is possible and reasonable to infer that wherever a government formally bans a religious group or seeks to eliminate its presence in a particular country, that government is ipso facto engaging in activities that severely limit the institutional religious freedom of the religious group in question. So, on a generous interpretation, it is possible to view Pew's GRI Q. 16 and GRI Q. 17 as providing some indication—albeit very broad and indirect—of whether institutional religious freedom is being restricted in societies where governments formally ban particular religious groups or are seeking to eradicate a group entirely. At the same time, for the majority of the world's societies in which governments are not engaging in this kind of extreme religious restriction, these two questions are not designed to shed direct light on the level or kind of institutional religious freedom religious groups might (or might not) be enjoying.

Pew's Government Restrictions Index poses other questions that may—or may not—indirectly relate to issues of institutional religious freedom. One such question is GRI Q. 14: "Does the national government have an established organization to regulate or manage

religious affairs?” It is certainly reasonable to expect that a government with a dedicated ministry or organ dedicated to the regulation of religious affairs is likely also to impose a variety of controls and restrictions on institutional religious freedom. Often, it seems, precisely the purpose of such entities is to exercise far-reaching oversight and management of religious institutions. Indeed, well-known cases of countries with government offices of religious affairs—such as Turkey, with its Directorate of Religious Affairs, or *Diyanet İşleri Başkanlığı*—are witness to extensive and systematic restrictions on institutional religious freedom.²⁷ While the association is reasonable, however, it is far from being direct and automatic. Some governments with an office or ministry of religious affairs, such as that of Sri Lanka, do not impose Kemalist-style restrictions on religious institutions, and, even if they impose some restrictions, they do not necessarily impose them uniformly across religious communities. Furthermore, it is obvious that governments do not need an established organization dedicated to the regulation of religious affairs in order to impose severe restrictions on religious freedom in general and institutional religious freedom in particular. Russia, for example, though it had the fourth highest levels of government restrictions of religion in the world in 2015, according to Pew’s most recent global religious restrictions report, does not have a formal government ministry or directorate of religious affairs. So this indicator, by itself, is at best a highly indirect and unreliable reflection of the actual state of religious freedom—including institutional religious freedom—in any given country.

What is true of Pew’s GRI Q. 14 is also true of GRI Q. 19 and GRI Q. 20. One part of GRI Q. 19 asks whether “any level of government use[d] force toward religious groups that resulted in individuals having their personal or religious properties damaged or destroyed?” Though, rather oddly, the question specifically asks whether “individuals” have suffered damage to their personal or “religious” property, it is clearly construed and applied so as to determine whether governments use force in particular countries in a way that damages the property of religious institutions as well as individuals. And sub-questions of GRI Q. 20 ask whether a country’s constitution favors one religion or more than one religion and whether the government provides access, privileges and funds to religious groups, and, if so, whether it does so on an equal or unequal basis? In many cases, undoubtedly, government favoritism and the granting of government privileges and funding bear systematic and far-reaching implications for institutional religious freedom. Government “privileges” for religious groups in numerous contexts may come in the form of access to basic dimensions of institutional religious freedom, such as the right to entity status, the right to the autonomous selection of religious leadership and personnel, the right to own and transfer property and construct buildings, the right to secure funding without undue external interference, etc. And in some cases, governments may dispense these rights and privileges unequally with the result that some religious groups may enjoy a significant level of institutional religious autonomy while other groups may enjoy only a very low level of institutional freedom. At the same time, significant government funding of a religious group—even when the funding is welcome and even sought by the group in question—may come almost automatically with significant government control and limits on the group’s institutional autonomy.

However, just as is true of whether a country has a government bureau of religious affairs, indicators such as access to government funding, favoritism, or privileges are a highly indirect and unreliable marker of institutional religious freedom. For example, significant funding by the U.S. federal government of certain religious NGOs to advance American objectives in the areas of international relief and development as well as domestic welfare (such as Catholic Charities, Catholic Relief Services, and World Vision) does not bring the kind of far-reaching government oversight and limitation on the autonomy of religious institutions that significant government funding of religious groups often seems to bring in other contexts. Likewise, the extent to which government favor for particular religious groups translates into higher or lower levels of institutional religious freedom is highly path-dependent and inextricably related to complex historical, political, cultural, and religious dynamics. An established religion or state church in one context, such as

the Anglican Church in England and Wales, may enjoy significantly greater institutional autonomy than an established religion in another context, such as Sunni Islam in Malaysia. So while several of Pew's GRI indicators probably pick up some underlying patterns and dynamics in governmental restrictions on religious institutions, these indicators in and of themselves cannot tell us anything definite or precise about the nature or level of government restrictions on—or protections of—religion's institutional autonomy in any given context or, for that matter, across contexts and across time.

An analysis of the relationship between Pew's Social Hostilities Index (SHI) and institutional religious freedom can be much briefer and simpler. *None of Pew's 13 indicators of social restrictions on religion directly and explicitly addresses institutional religious freedom.* At most, as with many indicators in the Government Restrictions Index, there are some SHI indicators that may indirectly pick up various kinds of attacks and restrictions on religious institutions, even though they do not directly ask about them. For example, there are indicators that probe the extent to which social groups are engaging in harassment or intimidation of religious groups in general, and whether particular religious communities (Muslims, Buddhists, Christians, Jews, etc.) are targets of religious hatred and violence (SHI Q. 1.). Numerous indicators probe the presence and prevalence of religion-related mob violence (SHI Q. 2), sectarian violence between religious groups (SHI Q. 3), religion-related terrorism (SHI Q. 4), religion-related armed conflict (SHI Q. 5), and violence resulting from inter-religious tension (SHI Q. 6). Two questions probe whether organized groups—religious or non-religious—used coercion “to dominate public life with their perspective on religion” and attempted to prevent any religious groups from operating in the country (SHI Q. 7–8). A couple of questions ask about “incidents of hostility” over proselytizing and religious conversion (SHI Q. 12–13). And there are questions that explicitly probe acts of religion-related violence or harassment aimed at “individuals”, including individual women, rather than institutions (SHI Q. 10–11).

Except for the indicators that explicitly probe attacks on individuals, it is possible and probably inevitable that many of these indicators are capturing attacks, acts of violence, and incidents of hostility that have the intention and the result of damaging religious institutions, perhaps in systematic and far-reaching ways. But none of the SHI indicators probes this kind of intention and consequence in a direct and unequivocal manner. Therefore, the social hostilities portion of the Pew Global Religious Restrictions index yields no clear and definite information whatsoever concerning the restrictions or attacks social groups may—or may not—be inflicting on religious institutions and their autonomy around the world.

We can, therefore, derive relatively little direct information and insight from the Pew data on government and social religious restrictions with respect to the global state or trajectory of the religious freedom of institutions, including in a large and significant country such as India. Pew's Global Religious Restrictions project tracks only one part of one dimension of institutional religious freedom, i.e., the religious registration sub-dimension of the horizontal dimension of institutional religious freedom. This major lacuna in Pew's work on religious restrictions appears to result from three main factors.

First, Pew's Global Religious Restrictions coding is quantitative—up or down—rather than qualitative. Any given indicator probes whether and to what extent a particular religious restriction is occurring, but it is not asking how or where it is occurring. We can therefore learn, for example, whether and to what extent a government or social group is harassing and intimidating a religious community, but we cannot learn what form such harassment may be taking and whether and how it may affect a community's religious institutions. As we have noted, several indicators may and probably do track attacks or restrictions on religious institutions, but the general formulation of these indicators means that we cannot know for sure how much and to what extent they are picking up attacks on religious institutions. Therefore, except on the narrow issue of religious registration, tracked by GRI 18, the Pew data cannot tell us anything definite or precise about institutional religious freedom.

Second, to a remarkable degree, the Pew GRI and SHI indexes are explicitly and repeatedly focused on the impact of religious restrictions on “individuals”. Numerous questions ask exclusively about attacks on or intimidation of “individuals”. *In fact, the term “individuals” appears 41 times in Pew’s Global Religious Restrictions Codebook; the term “institutions” appears exactly once, and only with reference to “government institutions”.*²⁸

Third, Pew’s codebook is incident-focused, not structure-focused or policy-focused. Both the GRI and SHI are focused largely on tracking the occurrence of incidents, acts, and events—outbreaks of violence, incidents of hostility, episodes of harassment and intimidation, etc. However, much of what determines the level and quality of institutional religious freedom in any given society is the result of legal structures, public policies, and cultural patterns. Such structural phenomena the Pew indicators are generally not designed to track.

3.5. Sources and Consequences of the Widespread Gap in Religious Freedom Studies of India

One significant source of the widespread neglect of these crucial dimensions of religious freedom in India is that a large number of the available reports and mappings are—by deliberate design and intention—not interested in the condition of religious freedom in India per se but are interested only in the persecution and victimization of particular groups and minority communities. This raises the “whence” dimension of religious freedom mappings: the fact is that a large proportion of religious freedom mappings have an American or Christian provenance, or very often both, and, therefore have a broad tendency to ignore or neglect the treatment of non-Christians in their analyses. Even if one casts one’s analytical net beyond American organizations, a large number of “religious freedom” or “religious persecution” advocacy organizations—Open Doors International (ODI), Human Rights Watch, Misaal Foundation, United Christian Forum (UCF), the Religious Liberty Commission of the Evangelical Fellowship of India (RLC-EFI), Alliance Defending Freedom-India (ADF-I), and the Centre for Equity Studies—focus only on the persecution of religious minorities. Indeed, the focus of several of these organizations is even more narrow—in the case of ODI, ACN, UCF, RLC-EFI, and ADF—insofar as it is restricted to anti-Christian persecution in particular. Worse, because these organizations produce many of the reports that are important sources for the US State Department, the US Commission on International Religious Freedom, and Jonathan Fox’s Religion and State (RAS) project, a tendency to under-report restrictions and violence targeting Hindus is detectable even in these latter studies as well.

While ideologically charged animus prevents Hindu nationalists as well as other Indians from taking the religious freedom reports of these organizations seriously, some of their distrust is an understandable consequence of the fact that these studies consistently neglect restrictions and violence targeting Hindus. Too often, therefore, it is inevitable, whatever the underlying intentions, that many of these religious freedom mappings themselves become weapons in India’s counter-pluralistic ideological cross-fire rather than useful contributions to the promotion of authentic freedom and pluralism.

Among the other lacunae in the available mappings, consider their treatment of the “how” dimensions of religious freedom. As the foregoing analysis clearly demonstrates, most available studies take the form of persecution case reports that focus overwhelmingly on social or informal acts of violence or harassment rather than government-imposed, legal restrictions, and they particularly neglect how formal government policies impact institutions. For example, even as highly sophisticated a framework as Pew’s Global Religious Restrictions Codebook is not only individual-focused rather than institution-focused, as noted earlier, but also incident-focused rather than structure-focused. Both Pew’s GRI and SHI are focused largely on tracking discrete incidents and events such as outbreaks of violence or episodes of harassment. However, except in cases where there has been a substantial breakdown of political order and the rule of law, what largely determines the level and quality of religious freedom in any given society is its established legal structures, public policies, and cultural patterns. But such structural phenomena

Pew's indicators are generally not designed to track. Instead, because Pew focuses so heavily on discrete incidents, a country with a population as large as India's as well as with a reasonably open civil society and free flow of information (despite some serious attrition in press and other freedoms in recent years), will almost inevitably record a large number of incidents, *even though the number of incidents per capita may remain very small or geographically isolated*. In other words, the fact that India has a higher level of religion-related social hostilities than Syria and Iraq, according to Pew's index, may mean less than it appears, and may present a distorted—and at best incomplete—picture of the multi-dimensional reality of religious freedom as it is lived by most Indians most of the time.

The picture is further distorted because Pew pays no attention, as suggested earlier, to the geography or “where” of religious freedom. Indeed, this lacuna is characteristic. The vast majority of religious freedom studies collect and analyze data on religious freedom restrictions only on an aggregated, national level, even though, as we have indicated, there is good reason to believe that at least some—though by no means all—of India's religious freedom challenges are concentrated in a relatively small number of north-central “cow belt” states. This is problematic because it almost certainly paints a much darker picture of the country as a whole than it deserves. Consider, for example, that a recent Open Doors International report listed India as the world's tenth most dangerous country in which to be a Christian—more dangerous and restrictive than Saudi Arabia (Open Doors 2020). This is partly a result of the fact that the ODI study, like Pew, is highly sensitive to raw numbers of reported incidents, and makes no effort to contextualize these numbers by creating something like a “persecution-per-capita” index.

It is problematic also, however, because it not only exaggerates the darkness but ignores the light. The fact that many forms of religious freedom restriction are concentrated in fewer than ten Indian states means that something like twenty Indian states as well as eight Union territories have relatively low religious freedom restrictions and relatively few incidents of religion-related violence. In other words, it is not that India is a country of high religious persecution and violence with just a few pockets of peace and pluralism. More like the reverse is true (though of course there are problematic national-level policies and patterns, as we have noted). If so, the goal of understanding the causes of religious restriction and advancing the principles of religious freedom would be greatly advanced if more mappings attempted to study India's vast zones of relative religious freedom, religious peace, and religious pluralism. In fact, however, virtually no existing religious freedom studies even attempt to provide a kind of inventory of what could be termed India's religious freedom capabilities, strengths, and success stories.

In terms of the “when” of religious freedom, there is a serious time lag issue even with some of the most comprehensive studies, though there is often less of an issue with advocacy-oriented studies focusing on particular communities. For example, Pew's lag time is about two years, so that its 2020 report, for example, covers the year 2018, and this is largely because it relies heavily on the annual US State Department Report for its coding, and this report is released the year after the year it covers. This is a serious problem given the volatility of India's religious freedom dynamics.²⁹

A particular argument for the value of tracking real-time developments as much as possible is the global spread and acceleration of what human rights lawyer Chrystie Swiney terms a “counter-associational revolution”. It is only in the last decade that several major democratic governments—India's included—have imposed severe restrictions on civil society organizations, including religious ones (Swiney 2019). Particularly if research on the nexus of religion and politics in soon to be the world's largest country is to serve not just scholars and those with strictly theoretical interests in knowledge for its own sake, it is essential to develop more timely knowledge of India's religious freedom dynamics.

4. The Important though Neglected Reality of Restrictions on Hindu (and Other) Religious Institutions in India

The widespread and systematic failure even to observe and register restrictions on Hindu and other religious institutions in India would be trivial and hardly worth noting if institutions, organizations, and communities did not bear important and distinctive religious freedom rights, or if they were not core components of any society's infrastructure of religious freedom and civil society. But they do, and they are. Furthermore, there is abundant evidence that the rights of religious institutions and organizations are vulnerable to serious and systematic legal restrictions in India and have been facing increasingly stringent controls in recent years.

For example, federal law empowers the government to ban religious organizations that provoke "intercommunity friction", are involved in terrorism or sedition, or violate laws governing foreign contributions to NGOs (for more on government regulation of foreign financial contributions, see below). India's Religious Institutions (Prevention of Misuse) Act prohibits the use of religious institutions for political activity. Articles 5 and 6 prohibit the use of a religious institution's funds, or a religious gathering or ceremony, for the sake of political activity. The Places of Worship (Special Provisions) Bill prohibits the "conversion" of places of worship from one religion to another "in order to foreclose any controversy in respect of any place of worship that existed on 15th day of August 1947". At the state level, Uttar Pradesh has a law regulating the construction and use of public religious buildings. All construction and utilization of public buildings for religious worship needs to be approved by the government. Similarly, the states of Madhya Pradesh, Rajasthan, Uttar Pradesh, and West Bengal have laws regulating the construction of public religious buildings and the use of public places for religious purposes.³⁰

This thicket of regulations potentially constitutes a massive structural impediment to the full-fledged freedom of religious institutions insofar as they evidently invite expansive interpretation and a high level of intervention on the part of both national and state government officials in religious affairs. Yet, again, precisely how such regulations are interpreted and enforced to regulate and restrict institutional religious freedom in India receives little attention in the available religious freedom mappings.

In one area—the freedom of religious (and non-religious) NGOs to access foreign funding—governmental and administrative restrictions on the freedom of religious institutions have become significantly more severe in recent years. With increasing frequency since 2014, Indian authorities have frozen the bank accounts of organizations using the 2010 Foreign Contributions Regulations Act (FCRA). The FCRA, significantly, was passed by the Indian parliament while a Congress-led coalition government was firmly in power, and four years before the BJP achieved dominance at the center, in 2014. With the FCRA as a tool, the central government has been able to prevent growing number of NGOs from accessing funding to carry out their operations. Many activists believe that the current government has used the FCRA selectively to target certain kinds of NGOs—particularly leftist and minority NGOs deemed "anti-national"—with the shuttering of Compassion International's operations in India in late 2016 being only the most prominent case.

In fact, existing regulations rooted in the Indian Penal Code may authorize the government to treat religious NGOs with greater—and inequitable—severity. The Ministry of Home Affairs may reject an organization's FCRA application if the recipient is judged to be engaged in creating communal tensions or disharmony. The ministry may also reject an application if it judges that foreign funding would be detrimental to "harmony between any religious, social, linguistic, or regional group, caste, or community" (United States State Department 2021). Presumably as a direct result of the application of these and other restrictive criteria, it was reported in late 2018 that the central government had revoked the FCRA licenses of some 20,000 NGOs receiving foreign funds. In some cases, organizations lost their licenses simply because they were deemed "anti-national". The result, according to a Bain and Company report, is that philanthropic NGOs in India suffered a 40% decline in foreign funding between 2015 and 2018.³¹

Another major lacuna in the available studies when it comes to “who” enjoys (or fails to enjoy) religious freedom protections concerns members of the Hindu religious majority. Hindus, of course, bear the right to religious free exercise and religious equality just as much other members of Indian society. However, exceedingly few studies or mappings of religious freedom in India—including studies of religious violence—even attempt to catalogue the respects or instances in which Hindus may be the victims of religious violence, persecution, and discrimination. Of course, reports consciously designed to analyze attacks or restrictions on members of minority communities cannot reasonably be expected to analyze attacks or restrictions on members of the Hindu majority, or be criticized for failing to do so. But reports that are ostensibly designed to analyze religious persecution in general or restrictions on religious freedom per se should be expected to include attacks on Hindus. With respect to non-state or social restrictions, while grassroots religious violence in India is often asymmetric in that it disproportionately victimizes members of religious minority communities, innocent Hindus often suffer during episodes of religious violence and communal rioting.

For example, a Hate Crime Watch study of nearly 300 religion-related hate crimes occurring across India between 2009 and 2019 found that Hindus were about as likely to be the victims of these crimes as Christians (14% of the victims were Hindus, and 15% were Christians, while 59% were Muslims).³² In addition, Bauman and Ponniah have noted in their studies of the explosive Hindu-Christian violence in Odisha in 2008 that many Hindus were deliberately targeted. While most victims were Christians, “many Hindus were also attacked and driven out of their homes”. In just one incident, “a Christian mob destroyed 120 Hindu homes”. Moreover, some Hindu victims of the violence reported that post-violence relief efforts largely ignored them, and that they did not feel safe in the refugee camps populated mostly by Christians (Bauman and Ponniah 2016, p. 233).

With respect to state-generated or official religious restrictions, significant evidence supports the conclusion that here, too, Hindus are subject to serious and systematic violations of their religious freedom in domains largely ignored by most available studies.

The first domain is in what could be termed communal self-definition. Numerous religious communities in India have sought permission to self-identify as non-Hindu, while also continuing to draw spiritual inspiration from the broad Hindu tradition. That is, these communities do not seek to “convert” to an existing, formally non-Hindu or extra-Hindu religious tradition, such as Islam or Christianity, but simply seek the freedom to create and identify explicitly with what could be termed a religious “third option”—a “Hindu-ish” variant of Hinduism that they consciously and deliberately wish to place outside the boundaries of what is generally considered Hinduism. One example is the Lingayat community, originating in the twelfth century, which is fervently opposed to caste distinctions. When presented with such petitioners, the Indian courts have consistently closed the door. The result is that court rulings have made it difficult if not impossible for individuals and groups to exercise what could be called a right of exit from the broad Hindu family. That is, even groups belonging to the broad family of indigenously Indic religions but do not consider themselves Hindu—even for grave reasons—are not permitted for official purposes to be anything other than Hindu (Dhavan 1987; Sen 2019). So, remarkably, even neo-Buddhists—who, following B.R. Ambedkar, famously and insistently demand to be anything but Hindu—have come to be classified by the government as Hindus. What makes the refusal to give “Hindus” (broadly conceived) a right of self-definition and a closely conjoined right of exit particularly egregious in the eyes of many is that the government and the courts do not subject minority communities to equivalent restrictions, which is to say that an issue of inequitable treatment adds insult to injury.³³

Yet this entire issue—an issue that could hardly be more fundamental to religious freedom insofar as it touches on one’s ability, or the ability of one’s community, to define and understand one’s religious convictions and religious identity on one’s own terms—is generally ignored in the available mappings and studies of religious freedom in India. It is particularly unfortunate that this issue is systematically ignored or neglected (except, to an

extent, by specialists in Indian law) because the freedom to self-define and construct one's own alternative to mainstream spiritual traditions is central to the meaning of freedom in general and religious freedom in particular. Though he is generally supportive of some government role in the regulation of religious affairs under the Indian Constitution, political theorist and public commentator Pratap Mehta recently observed, "The state has consolidated Hinduism in one homogenous legal identity. While we strike a blow for freedom we forget that in India communities do not have the freedom of self-identification". Mehta adds, yet more sharply, "If God should not hold the state hostage, neither should [the] state become God" (Mehta 2018). The freedom of religious self-definition, moreover, is indispensable to a culture of spiritual innovation and free and fluid religious competition. And as I have noted elsewhere, self-definition—or the substantive dimension of institutional religious freedom—is one of three core components of the freedom of religious institutions. If religious institutions cannot define the substance of their identity and beliefs, it is not so much that they are less free. It may be more accurate to say that they do not exist as distinct actors and agents at all.

Another significant government limitation on the religious freedom of Hindus generally ignored by available religious freedom mappings concerns the administration of Hindu temples and other institutions. Though as we noted earlier, Article 26 of the Indian Constitution expressly protects the freedom of religious denominations to govern their own affairs, judicial rulings dating back to the 1950s have carved out so many exceptions to this fundamental freedom that there is not much left of it—especially (ironically) when it comes to the self-governance of the religious institutions of the Hindu majority. "It is not an exaggeration to say that Hinduism has been nationalised [*sic*] through the agency of the state", to quote Pratap Mehta again. "The state now runs tens of thousands of religious institutions. If you look at the case law, it is hard to argue that temples are autonomous creatures outside the state in the way in which churches might be in the US" (Mehta 2018).

The story of how India came to practice a form of Erastianism vis-à-vis Hindu institutions is long and complicated, but the upshot is that the prioritization of other constitutional imperatives such as the liberation of Dalits from caste-based exclusion and oppression prompted Indian politicians and judges to downgrade the freedom of Hindu institutions to govern their own affairs relative to these other priorities.³⁴ Furthermore, as the recent Sabarimala Temple case illustrates, Indian judges have even arrogated to themselves the right to identify which theological doctrines and practices within any given religious tradition (including Hinduism) are "essential", regardless of what the community itself might say, in order to justify and expand the state's regulatory reach and power over any doctrines and practices it deems non-essential. In the damning judgment of distinguished Indian jurists Rajeev Dhavan and Fali Nariman, "Few religious pontiffs possess this kind of authority" (Dhavan and Nariman 2000, p. 259).

While Indian judges have exercised a plenipotentiary power over Hindu institutions with particular abandon, as the recent and highly controversial Supreme Court judgment concerning the Sabarimala Temple demonstrates, as noted at the beginning of the article, they have generally refrained from wielding "essential practice" jurisprudence to limit the freedom of minority religious institutions with the same eagerness or lack of restraint (on which point, see the next section). Despite the enormous importance of this issue for assessing the quality of religious freedom in India, however, even studies with the express purpose of tracking the nexus of religion and law, such as ReligLaw, have paid relatively little attention to the deep-seated structural limitations Indian law imposes on the self-definition and institutional self-governance of religious communities.

5. Injury and (the Insult of) Inequality?

So notwithstanding the general silence of the major religious freedom reports on the matter, is there a widespread and problematic pattern of Hindu Erastianism in India—a pattern in which the state exercises a significant and even invasive level of oversight and control over Hindu religious institutions, including Hindu temples? Moreover, is there a

pattern in which Hindu institutions not only suffer this kind of injury but do so in ways and to degrees that non-Hindu institutions do not? In other words, do Hindu institutions suffer not only the injury of sweeping and excessive state oversight but also the insult of unequally suffering what other communities do not (or at least not to the same degree)?

This paper is not the place to offer comprehensive answers to these questions, but the following points are in order. First, these questions have been ably explored by other scholars, at least to some extent, most recently and most ably by Chad Bauman in this special issue of *Religions* (Bauman 2021). And the emerging consensus among these scholars, and even among those relatively liberal scholars sympathetic to the Court's conclusions on specific cases such as *Sabarimala*, is that government controls on religious institutions in general and Hindu institutions in particular have simply gone too far. A focus of criticism for many of these scholars is the Indian Supreme Court's "essential practices" doctrine, which, as *Sabarimala* has shown, has invited court rulings authorizing ever-increasing levels of state-initiated control, reorganization, and even redefinition of religious institutions, religious communities, and religious practices. When combined with the general tendency of the Indian state ever since the early years of Nehru's long tenure as prime minister to treat fundamental constitutional rights as of little account when compared with government interests and imperatives (Anderson 2015; Singh 2020), India has seen what could be described as an overall and probably overdetermined tendency to reduce the autonomy of religious and particularly Hindu institutions.

Second, it is also the case, ironically perhaps, that Indian authorities and judges appear to have been far more adventurous or perhaps reckless about applying the logic of the "essential practices" doctrine to Hindu institutions than to minority institutions. It is true that an Indian court infamously ruled that worshipping in a mosque is not essential to being a Muslim on the grounds that a Muslim can worship in the open air, and the Supreme Court's recent ruling on the longstanding *Babri Masjid* dispute was hardly an unqualified victory for the rights and freedoms of minority institutions.³⁵ At the same time, in the *Babri Masjid* case, the Court at least acknowledged that the judgment in favor of permitting construction of the Ram temple needed to be balanced by a compensatory grant of an alternative plot of land for the construction of a new mosque.³⁶ In general, the relevant judges and political decision makers appear to recognize that they—particularly as they are invariably from mostly Hindu backgrounds—are liable to be on thin ice if they make theology-laden pronouncements about what may or may not be "essential" practices and doctrines within Islam, Christianity, Sikhism, Buddhism, or Jainism. And in the one instance when the Supreme Court was adventurous in the extreme in issuing authoritative pronouncements and reinterpretations concerning doctrines and practices internal to Islam, the 1985 *Shah Bano* case, the immediate and long-term political consequences were so tumultuous that India's highest Court has since generally avoided similar hermeneutical adventures when it comes to evaluating the meaning and weight of minority religious doctrines, institutions, and practices.³⁷

The upshot of all this is that Hindu institutions do indeed appear to be in a situation that many Hindus as well as relatively disinterested analysts consider simultaneously injurious and insulting. Whatever may be the ad hoc and often entirely plausible justifications offered in particular instances, as with the *Sabarimala* case, the net result is an oppressive and invasive reality that is simply out of step with what Hindus have a right to expect from a Constitution that declares on its face that they possess an equal right to maintain and control their own religious institutions. And it is an invasive reality that other religious institutions and communities, particularly Muslim and Christian ones, generally do not have to experience, at least not to the same degree. For anyone who genuinely cares about religious freedom as a normative principle, rather than as a political weapon for strengthening one's own tribe at the expense of competing tribes, this fact should serve as an impetus to long-term reflection and action with a view to bringing the reality into at least somewhat greater alignment with the principle. It is perhaps a hopeful sign of a growing recognition that reality has in fact strayed much too far from any sound understanding of the principle

of religious freedom—which perforce must include robust respect for *institutional* religious freedom—that a closely divided Indian Supreme Court decided in late 2019 to review both the *Sabarimala* judgment and the “essential practices” doctrine on which it turned.³⁸

6. What Explains India’s “Other” Religious Freedom Problem—And Can It Be Solved?

Rather than a reductionist or monocausal approach, it is crucial to situate the steady deterioration of religious freedom in India within a wider historical framework. This deterioration, after all, long predates the BJP’s accession to a dominant national political position post-2014. I propose that this decline must be attributed at least in part to dynamics of political and ideological conflict that were set in motion decades ago, and in fact begin in the commitment of India’s first post-independence prime minister, Jawaharlal Nehru, to an uncompromising vision of statist secularism that left little possibility for constructive engagement and competition with Hindu tradition or Hindu nationalism. In other words, a deep-seated matrix of zero-sum ideological conflict in post-independence India helps to explain both the rise of an extreme form of Hindu nationalism and the decline of religious freedom, rather than the reverse explanatory approach that holds that Hindu nationalism is to blame both for India’s ideological polarization and its deterioration in religious freedom.

To see the plausibility of this suggestion, consider the fact that three of the most widely bemoaned vehicles of religious freedom restriction in India today—anti-conversion laws, the FCRA law that authorizes extensive government limitations on NGO access to foreign funding, and the “essential practices” judicial doctrine that authorizes sweeping government redefinition and regulation of religion—were all originally formulated and instituted by secular-leaning Congress Party governments, legislators, or judges.

In other words, the real source of India’s wide range of religious freedom problems is a much deeper and wider set of dynamics. This applies to both the ones already widely noted as well as the country’s “other” religious freedom problems, including its systematic and extensive regime of government controls and limits on majority religious institutions. Among these dynamics is a longstanding and indeed decades-in-the-making ideological polarization, which has long pitted secularism against Hindu nationalism. This matrix of conflict undermines religious freedom insofar as the latter is a state of affairs in which all individuals and communities can embrace and express their best judgments of conscience on religious questions without either unreasonable interference or unjust discrimination on the part of the government or non-state agents.

The sad though often neglected reality is that Indian politics since independence has seen an increasingly destructive, uncompromising, and zero-sum conflict or dialectic between increasingly militant and even weaponized ideologies. As suggested earlier, Hindu nationalism is by no means the sole or even primary cause of this ecology of ideological polarization and zero-sum conflict. It takes two to tango, and it is crucial to recognize that this ideological conflict in particular is intense and polarized also because of sometimes authoritarian, arrogant, and exclusivist forms of high modernism and secularism advocated and embodied by the Congress Party of Jawaharlal Nehru and his daughter, Indira Gandhi, and their many descendants and representatives in Indian political and cultural life today. If this conflict has spun out of control on more than one occasion in India’s relatively short history as an independent state, this has sometimes been a consequence not of Hindu-nationalist militancy acting on its own, but also of an uncompromising and opportunistic secularism.

The first thirty years after Indian independence saw the nearly unchallenged and often ruthless dominance of Indian political and cultural life by the Congress Party. Politically, India was a one-party state in which the Congress held virtually unchallenged sway over national politics, society, and culture (and, indeed, as we shall see, over the Indian Constitution itself). Ideologically, the Congress leadership, and Nehru in particular, expressed little warmth for Hindu religious traditions or cultural nationalism. In fact, it is difficult to exaggerate Nehru’s contempt for religion throughout his life; his personal philosophy could be mistaken for a caricature of narrow scientism and anti-religious preju-

dice. “I have no patience left”, Nehru wrote in 1927, “with the legitimate and illegitimate offspring of religion”. This antipathy to religion was not merely personal but decisively shaped his public philosophy. A year before his death, he declared, “The [real] danger to India is Hindu right-wing communalism” (Tharoor 2003, pp. 233–34). The astute Indian public intellectual Gurcharan Das, though a sharp critic of Hindu nationalism, laments that Nehru’s charismatic example helped to produce generations of Congress politicians, often inspired by Marxism, who adopted a “strident kind of secularism” that tended to mock religion. “In well-meaning efforts to limit religion to the private life”, Das wrote in 2003, “they behave as though all religious people are superstitious and stupid”.³⁹ Furthermore, the Congress leadership, under Nehru and later under Indira Gandhi, did not hesitate to resort to naked authoritarianism to crush, marginalize, or silence their political and ideological opponents.⁴⁰ Frequently those opponents were the Hindu “communalists” Nehru loathed and feared.

The zenith of the Congress Party’s resort to the weaponization of secular ideology and to bald authoritarianism was reached when Indira Gandhi imposed an 18-month “Emergency” suspension of constitutional democracy in 1975–1977. From the beginning of the Emergency, as Christophe Jaffrelot notes, Gandhi made it clear that the RSS was a primary target of her repressive measures, and the available data demonstrates that the vast majority of those she illegally imprisoned who were identifiably connected to particular organizations or political parties were members of the RSS or the Bharatiya Jana Sangh (the predecessor party to the BJP). It was precisely “as part of her battle against communalism”, Jaffrelot notes, that “Indira Gandhi had secularism written into the Constitution”, employing entirely extra-democratic mechanisms to do so, at the high point of Emergency authoritarian rule in 1976 (Jaffrelot 1998, p. 273).⁴¹ Once Gandhi had weaponized secularism so brazenly, her Hindu-nationalist opponents—as well as many other Indians—could be forgiven for doubting its benevolence. Unsurprisingly, then, the 30-year period of dominance enjoyed by the Congress Party and its secular ideology, from 1947–1977, was followed after the lifting of the Emergency by a period of fierce ideological contestation. A particularly salient feature of this period is that the political secularism associated with the Nehru-Gandhi era suffered a steady hemorrhaging of legitimacy, leaving a growing vacuum at the heart of Indian politics and even of Indian national identity. And surely one factor in the dramatic ascent of the Hindu nationalist movement since 1980 was not only that it won for itself a certain amount of political capital and legitimacy as a collective martyr in the cause of democracy during the Emergency, but also that it offered a coherent ideological alternative that a growing number of Indians found plausible and attractive when compared with a secularism that appeared morally bankrupt and opportunistic.

Though many non-Indians do not know this history of authoritarian and weaponized secularism, and while many Indians have forgotten it or have chosen to forget it, it is unlikely ever to recede from the consciousness of Hindu nationalists—as my own interviews with Hindu nationalist leaders over several years startled me into recognizing.⁴² And it must be adduced as one factor explaining the extreme ideological polarization that has increasingly defined and divided India over the last nearly two generations. In other words, on top of an undeniable strain of Manichean militancy in extreme versions of Hindu-nationalist political theology, the severe repression the Hindu-nationalist movement experienced in the very name of secularism backed by unaccountable power—not as a distant datum of ancient history but during the lifetimes of the vast majority of today’s Hindu-nationalist leaders—serves to lend their activism an additional sharp edge of militancy.

Furthermore, this militancy is given additional impetus by what many Hindus regard as the manifest injustice that many of their temples and sacred spaces remain under extreme forms of state control and regulation. Though of course the political power of the Congress Party and other secular-leaning political forces has waned dramatically in recent years, the political and judicial apparatus of routine Erastian control of Hindu

institutions—put in place largely by secular Nehruvians bent on state-driven national integration and liberal reform in the 1950s and 1960s—remains intact. Particularly galling for many Hindus, as we have noted, is that minority religious institutions, such as churches and mosques, are generally free from such control, or at least do not experience them to the same systematic degree,⁴³ while, at the same time, the religious freedom violations under which Hindus labor seldom receive attention in human rights reports or treatments of religious freedom in India.

From a wider explanatory perspective, if we are looking to understand the full range of causes of India's growing limitations on religious freedom, it would be myopic, then, to fail to see that the Hindu-nationalist movement emerged when it did, and in the form it did, within a wider framework of causes and dynamics. Martha Nussbaum, no friend of religious conservatism and a strong advocate of a secular approach to politics, acutely observed that Nehru's antipathy to religion was not merely a lamentably narrow personal choice. "[Nehru's] disdain for religion", Nussbaum comments, "together with his idea of a modernity based upon scientific rather than humanistic values, led to what was perhaps the most serious defect in the new nation: the failure to create a liberal-pluralistic public rhetorical and imaginative culture whose ideas could have worked at the grassroots level to oppose those of the Hindu right" (Nussbaum 2008, p. 82).

In Nussbaum's wise rendering, Nehru's India made a fateful choice. Under his leadership, the country could have cultivated a "liberal-pluralistic" public culture, one that might have invited Hindu nationalists into constructive ideological competition. Instead, Nehru and his daughter doubled down on a narrowly secularist public philosophy enforced and imposed when necessary by forms of authoritarian repression—forms of repression that also included efforts to bring Hindu institutions under sweeping state control and regulation. The tragic reality, then, is that India has long failed to cultivate a "liberal-pluralistic" public culture that invites all points of view—and all communities and institutions, including religious ones—into competitive, peaceful, productive mutual exchange. From this wider perspective, it is reasonable to conclude that the militancy of the extreme wings of the Hindu-nationalist movement is far from the sole or even primary cause of India's retreat from pluralism. More likely, Hindu-nationalist supremacism is better viewed as one of its more lamentable consequences.

Funding: Work on this paper was made possible by a grant from the John Templeton Foundation to the Religious Freedom Institute for a three-year research project on the Freedom of Religious Institutions in Society as well as funding from the Templeton Religion Trust.

Conflicts of Interest: The author declares no conflict of interest.

Notes

- ¹ The case was *Indian Young Lawyers Association v. The State of Kerala (Sabarimala)*, and the full judgment is available online: https://indiankanoon.org/doc/163639357/?_cf_chl_jschl_tk__=68357291d091a2a25100045f890149064ae1f0bd-1623273937-0-AeNG5dCNAIZSOyBKho9sT4yY-INizC1Cjv51PfyXU-u_13vo7mTscxvAZW-ORYi8n6EMijBbpdBnNn8iDQhV2XPgSdqFZ6tpTu_-3LGyQQZQY7LoiMwP2zC7PdAp9-11-OP3wYZKMRZkP5VEUAPWZFE55-yXiQ-0eWkNx-elF6kISZoygTh5PX71vXaSNILkflVd4aPlyGUMdT7KHRiNg1yVK3xA_xxUKMaKCZ42MYjYtzPy7XCKhV3SrWqaUAaOcLB4gPNBQaXwaGYUpFuxWGnZ00dtpCZTWXDSCe85kTN7D1zn0O2vyqwTERqM6o8hpborG1fz-uH-rR2qtuAzeu9IwUCHI26MCWwG13gaSqYp9QCAMI6ezDjFB_aK0ySakpLCOH11uncM21OZd2Zj6P_fZLfqNbrRQXhOmxMBSVw7Bj0eras-efz2Hgi8h4n6qA_MPWwbxzf0CqPLfbdYfOzkdUVncADHtCZy5W. Accessed on 9 June 2021. For an excellent summary of the issues at stake and a critical analysis of the Supreme Court's constitutional reasoning and arguments in *Sabarimala*, though one also, importantly, developed from a standpoint sympathetic to the outcome, see (Parthasarathy 2020).
- ² Justice Malhotra argued that "what constitutes an essential religious practice is for the religious community to decide" and that the courts should intervene only when religious practices are "pernicious, oppressive, or a social evil, like Sati". For a summary of her dissent, see (Nair 2018).
- ³ By "regime" I simply mean to indicate that India's post-independence pattern of state regulation of religion is attributable not to any single party or ideological movement or branch of government or particular policy but a complex system that includes the text of the Indian Constitution itself; the distinct way the Constitution has been interpreted by generations of judges in India's highest judicial body, the Supreme Court; and generations of political actors at both the state and central government levels. It is this now

deeply entrenched system of interaction, involving a constellation of actors who have developed a relatively stable framework of constitutional interpretation, that has justified and realized what I term the Erastian system of government control of religious institutions (especially Hindu ones) explored in this article.

4 However, as one reviewer rightly points out, governments may sometimes treat different groups (including different religious groups) differently or unequally precisely to treat them in accordance with a single, uniform standard or principle of justice. A particularly small or vulnerable religious group, for example, might justifiably (and consistent with the egalitarian dimension of religious freedom) receive special government solicitude simply so that it can function on a footing of rough parity with other groups.

5 These examples are meant not be dispositive but illustrative. And the point they are intended to illustrate is that different groups may experience different kinds of religious restrictions. Of course, religious majorities will not experience majoritarian dominance or popular persecution the way minorities will, but religious majorities can of course experience restrictions by governments intent, for example, on reducing their power or preventing them from organizing in society and politics—much as minority Sunnis in Iraq associated with the Ba’athist regime of Saddam Hussein systematically restricted the religious freedom rights (as well as other fundamental rights) of the majority Shi’ite population. At the same time, not all restrictions are without justification. Precisely to maximize the level of religious freedom enjoyed by the greatest number of individuals and communities in a society, a government may of course be justified in limiting the power of a particular group intent on persecuting other groups.

6 The individual and institutional or corporate dimensions of religious freedom are often elided, as in classical liberalism, which tends to treat religious communities as merely the emanations and extensions of individual voluntary choice. The *locus classicus* of the view characteristic of the liberal tradition that religious bodies such as churches are simply “voluntary” aggregations or groupings of individuals with no distinct qualities or rights of their own is in John Locke’s *Letter on Toleration* (1689), a good critical edition of which may be found in (Locke and Vernon 2010).

7 I am grateful to Jonathan Fox for sharpening my understanding of this crucial issue.

8 For a wide-angle perspective, rare in available mappings of religious freedom in India, see Section 6.

9 The most recent US State Department International Religious Freedom Report, covering the state of religious freedom in most of the world’s countries during calendar year 2020, was released on May 12, 2021. The treatment of India was lengthy and critical, repeating (verbatim) language from the previous year noting many credible “reports of religiously motivated killings, assaults, riots, discrimination, vandalism, and actions restricting the right of individuals to practice and speak about their religious beliefs” (United States State Department 2021).

10 The project is described in detail at <http://www.religionandstate.org>. Accessed on 8 June 2021.

11 The later version of the dataset, Version 2, is available through the Inter-University Consortium for Political and Social Research (ICPSR) at the University of Michigan, at <https://www.icpsr.umich.edu/web/ICPSR/studies/4342>. Accessed on 29 June 2021. It is noteworthy that the dataset has not been updated since 1995.

12 The project is described at <https://www.reepstudy.com>. Accessed on 8 June 2021.

13 The project is described briefly at <https://www.usip.org/publications/2020/05/combating-religious-discrimination-india-and-beyond>. Accessed on 8 June 2021.

14 The work has been printed in multi-volume form as (Robbers et al. 2016). But its content is also available online at <https://referenceworks.brillonline.com/browse/encyclopedia-of-law-and-religion>. Accessed on 8 June 2021. The chapter on India (available in print and online) is (Mahmood 2015).

15 The project is described at <https://www.iclrs.org/religlaw/>. Accessed on 8 June 2021.

16 In this category belong three India-based efforts to collect data on religion-related hate crimes that, unfortunately, are no longer operational. First, as reported by the *New York Times* in October 2019, India’s Ministry of Home Affairs withheld information on religion-based hate crimes from its annual crime statistics report late last year. After delaying the release of the 2017 report for more than a year, Ministry officials ultimately explained their selective release of results by claiming that the data in several categories—including lynchings of non-Hindus (almost all Muslims) related to cow protection, crimes against journalists, and human rights violations by security personnel—were “unreliable” and “prone to misinterpretation” and therefore not fit for public inspection. The only category of religion-related violence the report does cover is “jihadi” terrorism (Schultz et al. 2019). Second, a “hate tracker” database published by the respected *Hindustan Times* newspaper closed down in 2017, less than a year after it was launched. Third, in September 2019, a data journalism outlet that compiled and published data on religion-based attacks also pulled down its reporting. FactChecker, a website featuring data on diverse policy-related subjects run by the Spending and Policy Research Foundation, had launched a Hate Crime Watch database just the year before in order to track religion-based hate crimes since 2009. A FactChecker database on cow-related violence in India also ceased to be available. At the same time, the journalist instrumental in founding these initiatives, Samar Halarnkar, indicated the databases will “eventually” reappear on a new website, and one scholar involved in these research efforts told me in February 2020 that he, too, expected they would be back in some form before long (personal communication between Prof. Mohsin Bhat, Associate Professor and Executive-Director of the Center for Public Interest Law at the Jindal Global Law School, and the author on 29 February 2020).

17 The analysts at the Centre for the Study of Society and Secularism define “communal violence” as including both religion-related riots as well as mob violence targeted against particular individuals. See (Engineer et al. 2020).

- 18 The website of the MapViolence project describes it as “an online tool to report and track the unprecedented increase in incidents of violence and hostility against the Christian minority community in India”. See <https://mapviolence.in>. Accessed on 24 May 2020.
- 19 The phrase “popular persecution” comes from Edmund Burke, who was perhaps the first modern political thinker to analyze the immense dangers of illiberal democracy or majoritarian tyranny for liberty in general and for the security of the “minority” in particular. “Of this I am certain”, Burke writes, “that in a democracy the majority of the citizens is capable of exercising the most cruel oppressions upon the minority whenever strong divisions prevail in that kind of polity, as they often must; and that oppression of the minority will extend to far greater numbers and will be carried on with much greater fury than can almost ever be apprehended from the dominion of a single scepter. In such a *popular persecution*, individual sufferers are in a much more deplorable condition than in any other” (Burke 1987, pp. 109–10). The emphasis is mine.
- 20 See <https://mapviolence.in>. Accessed on 24 May 2020.
- 21 These data are on file with the director of REEP, Rebecca Shah.
- 22 See (Varshney 2005). On “bridging” versus “bonding” social capital, see (Putnam 2020).
- 23 For Bauman’s most complete presentation of this compelling explanatory account, see (Bauman 2020), a historically sweeping and magisterial study.
- 24 On the pervasiveness of religious discrimination in India’s military and intelligence services, see (Anderson 2015).
- 25 While the phrase “religious group” appears in some of these questions, it is clearly used in the loose sense of “religious people” or “collection of religious individuals”, rather than in a specifically communal, organizational, or institutional sense. Needless to say, as in the second question for example, there is no logical or necessary connection between “public preaching” and “religious groups” in the strict sense of organized corporate entities. The question is designed to capture whether any public preaching is restricted, not whether public preaching carried out by organized religious entities or institutions is restricted, and therefore this question (or similar questions) cannot serve as a useful indicator of the level of restrictions on specifically *institutional* religious freedom.
- 26 As one reviewer rightly pointed out, the very fact that the State Department’s report excludes an honest assessment of the United States gives many people a reason to doubt the report’s overall credibility and integrity.
- 27 For an excellent and analytically rigorous discussion of the extensive government controls over religious institutions embedded in the Kemalist secularism of modern Turkey, including discussion of the role of the *Diyamet*, see (Kuru 2012).
- 28 As already noted (see note 25), the term “religious group” appears frequently in the Pew Global Religious Restrictions codebook but almost always in the non-institutional sense of “religious identity group”, i.e., to refer to the members of a particular religious tradition such as Buddhists, folk-religionists, Hindus, etc.
- 29 Indeed, Jonathan Fox’s own outstanding published work analyzing and interpreting the RAS data demonstrate there has in general been enormous dynamism and volatility in the global relationship between religion and state from the time the RAS began collecting data in 1990.
- 30 See, for example, (United States State Department 2021). See also the following: Government of India Ministry of Home Affairs, *Religious Institutions (Prevention of Misuse) Act, 1988*, available online: http://mha.nic.in/hindi/sites/upload_files/mhahindi/files/pdf/ReligiousInstitutionsAct1988.pdf (accessed on 9 June 2021); Parliament of India, *The Places of Worship (Special Provisions) Bill, 1991*, available online: <http://parliamentofindia.nic.in/ls/bills/1991/1991-37.htm> (accessed on 9 June 2021); Uttar Pradesh Regulation of Public Religious Buildings and Places Bill, 2000, available online: <http://www.yourarticlelibrary.com/uttar-pradesh/uttar-pradesh-regulation-of-public-religious-buildings-and-places-bill-2000/5609/> (accessed on 9 June 2021); and The Milli Gazette, *UP Regulation of Public Religious Buildings and Places Bill 2000*, available online: http://www.milligazette.com/Archives/01-4-2000/up_regulation_of_public_religiou.htm (accessed on 9 June 2021). I am grateful to Jonathan Fox for sharing this information with me.
- 31 See (Kumar 2019). Yet the available religious freedom mappings in India generally fail even to attempt to answer the numerous questions these troubling reports raise: What has been the impact on religious NGOs in particular? Have certain kinds of religious NGOs or religious NGOs in general been more likely to lose their FCRA licenses because of regulations related to communal harmony? Has the cutting off of access to foreign funds effectively imperiled the freedom of certain kinds of religious NGOs to operate and even to exist? To what extent have Hindu institutions also been affected, to the point of being subject to additional scrutiny or losing their FCRA licenses?
- 32 Hate Crime Watch 2019; <https://p.factchecker.in/>. Accessed on 8 June 2020. Of course, as one reviewer rightly pointed out, one cannot entirely abstract from questions of proportion and asymmetries of power. That the Christian community represents a much smaller share of the Indian population than the Hindu community must be factored into the analysis and interpretation of these figures. At the same time, the fundamental point stands: the impact on Hindus of religious violence and persecution in contemporary India is frequently and indeed systematically neglected or forgotten in many influential reports and studies. Yet persecution is persecution, violence is violence, and a hate crime is a hate crime, regardless of the religious identity of the victim.
- 33 One reviewer reasonably raises the question: Is this kind of restriction on the right of self-definition and (in the extreme) the right of exit better understood as a restriction on the freedom of majority individuals or minority individuals? It can reasonably be understood as a limitation on the rights of minorities, both because it restricts minority communities from peaceably and persuading majority individuals to join their ranks, and because it makes it difficult for majority individuals to become minorities of one kind or another. At the same time, it is not unreasonable to view these restrictions as limitations on the freedom of individuals born into the

majority Hindu community to adapt, redefine, and develop their religious or spiritual beliefs, practices, and identities, including in ways that stretch traditional perceptions and parameters of Hindu identity. The mistake, it seems to me, is to assume that such restrictions are or can only be understood as restrictions on minorities and therefore as restrictions that do not bear on the freedom of members of the (broadly understood) majority Hindu community. If the Indian state and courts have the ultimate right to decide the meaning, content, and boundaries of Hinduism and Hindu identity, then the freedom of Hindus clearly and inevitably also suffers in a profound way. This kind of restriction indeed constitutes a sweeping kind of Erastianism.

- 34 On the legal and political dimensions of India's state regulation of Hindu institutions since 1947, see (Dhavan 1987; Dhavan 2002; Preiser 1987; Berti et al. 2016; Sen 2019).
- 35 Astonishingly, the Indian Supreme Court did indeed determine in 1994 that a mosque is not essential to the practice of Islam. Despite numerous subsequent appeals, the Court has—as recently as 2018—declined to revisit this judgment. See (Sinha 2018).
- 36 See “Ayodhya verdict: Indian top court gives holy site to Hindus”, *BBC News*, 9 November 2019. Available online: <https://www.bbc.com/news/world-asia-india-50355775>. Accessed on 9 June 2021.
- 37 On the profoundly unsettling impact of the *Shah Bano* judgment and the pivotal role it played in Indian politics in the mid-1980s, see (Jaffrelot 1998). At the same time, while the Court has “generally” avoided using the “essential practices” doctrine to interpret and revise minority religious doctrine, in general and particularly since *Shah Bano*, this avoidance has not been absolute. In 2017, a divided Supreme Court (three justices to two) ruled that “triple talaq” instant divorce under Islamic personal law is unconstitutional. It is noteworthy, though, as is emphasized by (Mehta 2017), that the Court was so closely divided, that the Court was somewhat more restrained in its theologizing, and that reasoning about whether “triple talaq” was or is “essential” Islamic doctrine was not a dominant feature of the majority opinion.
- 38 Significantly, the Court decided to refer the *Sabarimala* case and the question of the legitimacy and scope of the “essential practices” doctrine to a larger, seven-member bench. The Court’s announced rationale unmistakably reflects a worry that its 2018 judgment in *Sabarimala*—and the whole decades-long drift of “essential practices” jurisprudence—threatens to impinge excessively on the legitimate freedom of religious communities and institutions. See (G. 2019).
- 39 On Gurcharan Das’s views, see (Nussbaum 2008, pp. 74–75).
- 40 The habitual authoritarianism of Congress-Party rule in general and Nehru in particular is a major theme in (Anderson 2015). Nehru’s strikingly illiberal crusade to gut the Indian Constitution’s protections of fundamental individual liberties almost immediately after the Constitution was ratified, in the early months of 1950, is the subject of (Singh 2020), an outstanding recent study based on a close and illuminating reading of the relevant primary materials.
- 41 On Indira Gandhi’s targeted repression of Hindu nationalist leaders and organizations during the Emergency, see, generally, (Jaffrelot 1998, pp. 272–77).
- 42 Particularly my personal interviews since 2003 with Ram Madhav Varanasi, an RSS *pracharak* from his youth, formerly national communications director for the RSS, and, until 2020, General Secretary of the BJP. As if it were yesterday, he vividly recalls his experiences as a boy taking food to several older male relatives in prison—all RSS leaders—during their 18-month-long detention under Indira Gandhi’s Emergency.
- 43 Both as an experienced judge and devout Hindu, the knowledgeable, incisive, and fair-minded Indian jurist, the Honorable G. R. Swaminathan, currently a justice in the Madras High Court, related to me and other participants in a seminar on law and religion in Hyderabad, India in February 2020, that precisely this perception is deeply felt and widespread among many thoughtful Hindus in India today. If the data and analysis presented in this article have any validity, then this perception has some grounding in reality.

References

- Anderson, Perry. 2015. *The Indian Ideology*. Gurgaon: Three Essays Collective.
- Bauman, Chad M. 2020. *Anti-Christian Violence in India*. Ithaca: Cornell University Press.
- Bauman, Chad M. 2021. Litigating the Limits of Religion: Minority and Majority Concerns about Institutional Religious Liberty in India. *Religions* 12: 400. [CrossRef]
- Bauman, Chad M., and Tamara Leech. 2012. Political Competition, Relative Deprivation, and Perceived Threat: A Research Note on Anti-Christian Violence in India. *Ethnic and Racial Studies* 35: 2195–216. [CrossRef]
- Bauman, Chad M., and James Ponniah. 2016. Christianity and Freedom in India. In *Christianity and Freedom, Volume 2: Contemporary Perspectives*. Edited by Timothy Shah and Allen Hertzke. Cambridge and New York: Cambridge University Press.
- Berti, Daniela, Gilles Tarabout, and Raphaël Voix. 2016. *Filing Religion: State, Hinduism, and Courts of Law*. New Delhi: Oxford University Press.
- Burke, Edmund. 1987. *Reflections on the Revolution in France*. Indianapolis: Hackett.
- Dhavan, Rajeev Dhavan. 1987. Religious Freedom in India. *The American Journal of Comparative Law: A Quarterly* 35: 209–54. [CrossRef]
- Dhavan, Rajeev. 2002. The Road to Xanadu: India’s Quest for Secularism. In *Religion and Personal Law in Secular India: A Call to Judgment*. Edited by Gerald J. Larson. Bloomington: Indiana University Press.
- Dhavan, Rajeev, and Fali Nariman. 2000. The Supreme Court and Group Life: Religious Freedom, Minority Groups, and Disadvantaged Communities. In *Supreme but Not Infallible: Essays in Honour of the Supreme Court of India*. Edited by B. N. Kirpal. New Delhi: Oxford University Press.

- Engineer, Irfan, Neha Dabhade, and Suraj Nair. 2020. Communal Riots 2019: Communal Discourse Raging on in India. Available online: <https://csss-islam.com/secular-perspective/communal-riots-2019-communal-discourse-raging-on-in-india/> (accessed on 9 June 2021).
- G., Ananthakrishnan. 2019. Sabarimala Review Plea: Let Big Bench Decide Larger Issues, Essential Religious Practices, Rules SC. *Indian Express*, November 15. Available online: <https://indianexpress.com/article/india/sabarimala-let-big-bench-decide-larger-issues-essential-religious-practices-supreme-court-6120529/> (accessed on 9 June 2021).
- Hudson, Valerie M., and Andrea den Boer. 2005. *Bare Branches: The Security Implications of Asia's Surplus Male Population*. Cambridge: MIT Press.
- Iyer, Sriya, and Anand Shrivastava. 2016. Religious Riots and Electoral Politics in India. Unpublished Paper. August 15. Available online: http://www.econ.cam.ac.uk/people-files/faculty/si105/Iyer_Shrivastava_2016.pdf (accessed on 9 June 2021).
- Jaffrelot, Christophe. 1998. *The Hindu Nationalist Movement in India*. New York: Columbia University Press.
- Kumar, Sujeet. 2019. India has been hostile to NGOs for decades. Modi made it worse. *Quartz India*. May 3. Available online: <https://qz.com/india/1611326/india-has-been-hostile-to-ngos-for-decades-modi-made-it-worse/> (accessed on 9 June 2021).
- Kuru, Ahmet T. 2012. *Secularism and State Policies Toward Religion: The United States, France, and Turkey*. Cambridge: Cambridge University Press.
- Locke, John, and Richard Vernon. 2010. *Locke on Toleration*. Cambridge: Cambridge University Press.
- Mahmood, Tahir. 2015. "India". *Encyclopedia of Law and Religion*. General Editor Gerhard Robbers. First published Online in 2015. Available online: http://dx.doi.org/10.1163/2405-9749_elr_COM_00000047 (accessed on 9 June 2021).
- Mehta, Pratap. 2017. Small step, no giant leap. *The Indian Express*. Available online: <https://indianexpress.com/article/opinion/columns/supreme-court-verdict-on-triple-talaq-small-step-no-giant-leap-4808945/> (accessed on 9 June 2021).
- Mehta, Pratap. 2018. Liberty without Statism. *The Indian Express*. October 1. Available online: <https://indianexpress.com/article/opinion/columns/sabarimala-gay-rights-adultery-supreme-court-constitution-liberty-without-statism-chandrachud-5380460/> (accessed on 9 June 2021).
- Nair, Shalini. 2018. Sabarimala verdict: Justice Indu Malhotra dissents—Can't invoke rationality in religion. *Indian Express*. September 29. Available online: <https://indianexpress.com/article/india/sabarimala-verdict-justice-indu-malhotra-dissents-cant-invoke-rationality-in-religion-5378873/> (accessed on 9 June 2021).
- Nussbaum, Martha C. 2008. *The Clash Within: Democracy, Religious Violence, and India's Future*. Cambridge: Belknap Press of Harvard University Press.
- Open Doors. 2020. World Watch List 2020: The 50 Countries Where It's Most Dangerous to Follow Jesus. Available online: https://www.opendoorsusa.org/wp-content/uploads/2020/01/2020_World_Watch_List.pdf (accessed on 9 June 2021).
- Parthasarathy, Suhrith. 2020. An Equal Right to Freedom of Religion: A Reading of the Supreme Court's Judgment in *Sabarimala*. *University of Oxford Human Rights Hub Journal* 3. Available online: <https://ohrh.law.ox.ac.uk/wordpress/wp-content/uploads/2020/05/U-of-OxHRJ-J-An-Equal-Right-to-Freedom-of-Religion.pdf> (accessed on 9 June 2021).
- Pew Research Center. 2019. A Closer Look at How Religious Restrictions Have Risen Around the World. Available online: https://www.pewforum.org/wp-content/uploads/sites/7/2019/07/Restrictions_X_WEB_7-15_FULL-VERSION-1.pdf (accessed on 9 June 2021).
- Pew Research Center. 2020. In 2018, Government Restrictions on Religion Reach Highest Level Globally in More Than a Decade. Available online: https://www.pewforum.org/wp-content/uploads/sites/7/2020/11/PF_11.10.20_religious_restrictions_full_report.pdf (accessed on 9 June 2021).
- Pew Research Center. n.d. Codebook for Pew Research Center's Global Restrictions on Religion Data. Available online: <http://www.thearda.com/archive/files/codebooks/origCB/Global%20Restrictions%20on%20Religion.pdf> (accessed on 9 June 2021).
- Preiser, Franklin A. 1987. *Religion under Bureaucracy: Policy and Administration for Hindu Temples in South India*. Cambridge: Cambridge University Press.
- Putnam, Robert David. 2020. *Bowling Alone: The Collapse and Revival of American Community*, 20th Anniversary ed. New York: Simon & Schuster Paperbacks.
- Robbers, Gerhard, Durham W. Cole, and Donlu Thayer. 2016. *Encyclopedia of Law and Religion*. Leiden: Brill Nijhoff.
- Schultz, Kai, Suhasini Raj, Jeffrey Gettleman, and Hari Kumar. 2019. In India, Hate Crime Data Is Released Selectively. *New York Times*. October 25. Available online: <https://www.nytimes.com/2019/10/24/world/asia/india-modi-hindu-violence.html> (accessed on 9 June 2021).
- Sen, Ronjoy. 2019. *Articles of Faith: Religion, Secularism, and the Indian Supreme Court*. New Delhi: Oxford University Press.
- Shah, Rebecca. 2016. Religious Innovation and Economic Empowerment in India: An Empirical Exploration. In *Religion and Innovation: Antagonists or Partners?* Edited by Donald A. Yerxa. London: Bloomsbury Academic, pp. 176–93.
- Singh, Tripurdaman. 2020. *Sixteen Stormy Days: The Story of the First Amendment of the Constitution of India*. Haryana: Penguin Random House India.
- Sinha, Bhadra. 2018. SC rejects 'namaz in mosque' petition, clears way for resuming Ayodhya hearing. *Hindustan Times (New Delhi)*, September 27. Available online: <https://www.hindustantimes.com/india-news/is-namaz-in-mosque-essential-to-islam-suprem-e-court-to-decide-today/story-h8w0ZGIBKsbFDKY7Slch5I.html> (accessed on 9 June 2021).
- Stepan, Alfred C. 2011. The Multiple Secularisms of Modern Democratic and Non-Democratic Regimes. In *Rethinking Secularism*. Edited by Craig Calhoun, Mark Juergensmeyer and Jonathan VanAntwerpen. Oxford and New York: Oxford University Press.

- Stepan, Alfred C., Yogendra Yadav, and Juan J. Linz. 2012. *Crafting State-Nations: India and Other Multinational Democracies*. Baltimore: Johns Hopkins University Press.
- Swiney, Chrystie Flournoy. 2019. The Counter-Associational Revolution: The Rise, Spread & Contagion of Restrictive Civil Society Laws in Democratic States. Unpublished Paper Prepared for Delivery at the Workshop on the Ostrom Workshop (WOW6) Conference, Indiana University Bloomington, Indiana, June 19–21. Available online: <https://dlc.dlib.indiana.edu/dlc/bitstream/handle/10535/10496/Chrystie%20Flournoy%20Swiney%2C%20The%20Counter-Associational%20Revolution%2C%20WOW6.pdf?sequence=1&isAllowed=y> (accessed on 9 June 2021).
- Tharoor, Shashi. 2003. *Nehru: The Invention of India*. New York: Arcade Publishing.
- United States State Department. 2021. 2020 Report on International Religious Freedom: India. Available online: <https://www.state.gov/reports/2020-report-on-international-religious-freedom/india/> (accessed on 24 May 2021).
- Varshney, Ashutosh. 2005. *Ethnic Conflict and Civic Life: Hindus and Muslims in India*, 2nd ed. New Haven: Yale University Press.
- Wilkinson, Steven. 2006. *Votes and Violence: Electoral Competition and Ethnic Riots in India*. Cambridge: Cambridge University Press.

Article

Islam and Institutional Religious Freedom in Indonesia

Robert W. Hefner

Department of Anthropology and Pardee School of Global Affairs, Boston University, Boston, MA 02215, USA; rhefner@bu.edu

Abstract: By emphasizing that individual religious freedom depends for its realization on complex social embeddings, the concept of institutional religious freedom provides an important corrective to conventional, individualistic approaches to religious freedom. The concept also helpfully complicates the investigation of religious freedom by encouraging analysts to recognize that different societal and civilizational traditions define religion itself in significantly different ways. Tensions such as these between different social definitions of religion and between different manifestations of institutional religious freedom have been a chronic feature of religious life in Indonesia since the establishment of the republic in 1945. This paper examines these legacies in the context of contemporary Indonesia, especially in light of ongoing disputes over the legal and ethical status of spiritual traditions (*kepercayaan*) long barred from full state recognition. The essay also explores the theoretical and policy implications of the Indonesian example for the analysis of institutional religious freedom in the late modern world as a whole.

Keywords: Indonesia; institutional religious freedom; religion in law; citizenship

Citation: Hefner, Robert W. 2021. Islam and Institutional Religious Freedom in Indonesia. *Religions* 12: 415. <https://doi.org/10.3390/rel12060415>

Academic Editors: Timothy Shah and Nathan A. Berkeley

Received: 20 April 2021
Accepted: 28 May 2021
Published: 7 June 2021

Publisher's Note: MDPI stays neutral with regard to jurisdictional claims in published maps and institutional affiliations.



Copyright: © 2021 by the author. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

1. Introduction

The concept of institutional religious freedom provides a welcome addition to more conventional approaches that highlight individual religious freedom to the exclusion of religion's broader social expressions. Religion is a deeply social and institutional as well as a subjective reality. Where religious groupings are not free to construct lifeworlds and institutions for the religious flourishing, the individual's freedom is inevitably limited or denied. To use the old sociological shibboleth, institutional religious freedom is the "condition of the possibility" of individual religious freedom. For that reason, it behooves all committed to the ideals of religious freedom to promote its institutional as well as individual realization.

A related but less familiar benefit of the concept of institutional religious freedom is that, by reminding analysts to gaze beyond the individual, the concept encourages us to recognize that different religious traditions require and construct significantly *different* institutions for human flourishing. This generalization seems so obvious as to be banal, but its implications for public policies dealing with institutional religious freedom are both complex and sobering. What I wish to underscore in this essay, then, is that we need to explore more fully the ethical and political implications of the fact that the institutions religious communities construct vary in their forms—and, in particular, how they vary in regard to the recognition and accommodation of individual and institutional religious freedoms.

This latter issue is nowhere more complexly illustrated than in regard to two facts on which my discussion of Indonesia will focus here. The first fact is that contrary to what some proponents of human rights today assume, different religious and political traditions have very-different understandings of what constitutes a "religion". Inasmuch as this is the case, even where a religious or political community affirms some ideal of religious freedom, it may not extend full rights and protections to communities seen as not fulfilling the cultural criteria required to qualify as a proper religion. As this chapter will make clear,

this “religious category problem” has been at the heart of disputes over religious freedom here in Indonesia. However, as Jonathan Fox (2006, 2012) has shown, similar controversies have also been widespread in most Western European liberal democracies, many of which extend full recognition and institutional freedom to only a select minority of religious communities. Notwithstanding the recent and (in my opinion) convincing efforts of certain political theorists to craft a universal definition of religion (Philpott 2019; Smith 2019; Shah and Friedman 2018), the fact remains that religious traditions and national communities have very different views on how to define and recognize religion, and this variation has serious implications for the freedoms they extend to different faith communities.

The second policy issue that follows from the plurality of religious institutionalizations is also underanalyzed in the religious freedom literature. It is that the institutions religious communities build often extend different rights and obligations to different categories of social actors, both within and beyond their respective communities. To borrow a phrase from citizenship theory, the citizenship that religious institutions create is typically not an equal and universal one extending the same rights and freedoms to everyone, but a “differentiated” citizenship (Beaman 2016) that assigns different rights and freedoms to actors distinguished in terms of religious status, gender, age, and a host of social distinctions. All this seems an obvious enough feature of the moral ecology of humanity’s diverse religious traditions. However, in a religiously plural society, the realization of institutional religious freedom for one religious community may lead to practices and organizations that limit or violate the individual and institutional religious freedom of other religious communities. Late nineteenth century restrictions on polygamy among Mormons in the United States offer but one example of such a clash of institutional religious freedoms. Debates over the implementation of Islamic law for Muslims living in Western Europe and North America offer a contemporary example of a similar tension. These examples remind us too that once policy makers’ vision of religious freedom extends beyond the individual to institutional realities, they may well witness, and have somehow to mediate, a clash of institutional religious freedoms.

Tensions such as these between different social definitions of religion and between different manifestations of institutional religious freedom have not been an only occasional but a chronic feature of religious life in Indonesia. Public understandings of what constitutes “religion” and thus qualifies for state recognition, protection, and institutional freedoms have been fiercely contested since the dawn of the Indonesian republic in 1945. No less important, actors have disagreed over just what institutions are required to facilitate religious flourishing *and* a proper practice of religious freedom. In the conclusion to this essay, I will suggest that these peculiar features of the Indonesian case are in fact illustrative of a general challenge in efforts to promote religious freedom. In particular, inasmuch as religious institutions allocate rights and freedoms in different ways, religious leaders and policy makers hoping to promote institutional religious freedom must be ready to devise principles for adjudicating contrasting models of institutional religious freedom and ethical flourishing.

2. Defining Religion and Religious Freedom

Indonesia is a country in which the reality of religion’s public definition and diversity has always loomed large. This Southeast Asian nation is made up of some 17,000 islands stretching 3400 miles east to west along the equator, and is home to more than seven hundred ethnic groups. The two largest ethnic groups (Javanese, 40%, and Sundanese, 15.5%) make up more than half of the population. Some 87.2% of this nation’s 270 million residents profess Islam, but there are significant religious minorities as well. A full 9.90% of citizens are Protestant or Catholic; 1.69% are Hindu; 0.72% are Buddhist; and 0.05% self-identify as Confucian. The size of its Muslim population makes Indonesia the fourth most populous country in the world, and the largest Muslim-majority nation. Although official statistics are lacking, there are also at least several hundred thousand practitioners of indigenous religions (known locally as *agama leluhur*), which until 2017 were not

officially recognized by the state (Maarif et al. 2019). There are also an unregistered but larger number of new religious and mystical movements, commonly referred to as, not religions, but *kepercayaan* (lit., “beliefs”, “spiritual beliefs”) or *aliran kebatinan* (“spiritual currents”). Before and after Indonesia’s return to democracy in 1998–1999 (see below), the legal and civil status of these unrecognized religions has been the focus of bitter dispute, a point to which I will return below.

In addition to being the world’s most populous Muslim society, Indonesia is also the third largest democracy. It undertook a return to electoral democracy in 1998–1999 in the aftermath of thirty-two years of authoritarian rule at the hands of President Suharto’s “New Order” regime (Aspinall 2005; Aspinall and Mietzner 2010; Mietzner 2009). Suharto’s New Order (1967–1998) had overseen a program of sustained economic and educational development, taking the country from among the world’s poorest nations in 1966 to the ranks of the World Bank’s “lower-middle income” countries by the early 1990s. Although it achieved impressive rates of economic growth, the New Order was harshly repressive in political and religious matters, including those having to do with institutional religious freedom. Suharto was an army general who came to power in the aftermath of a failed leftist-officers at the end of September 1965 (Cribb 1990; Roosa 2006). After suppressing the coup attempt, Suharto and his allies set out over the next eight months to destroy the Indonesian Communist Party (PKI), which Suharto claimed had masterminded the coup. Prior to these events, the PKI had been the largest of the country’s mass political organizations, with some 20 million member in various affiliate bodies. Estimates vary, but it is generally agreed that in the months that followed at least 500,000 alleged communists were killed; millions were imprisoned or detained.

In addition to destroying the once-powerful Indonesian Communist Party, the New Order regime implemented a number of policies that severely curtailed institutional religious freedom. The regime effectively banned Islamist parties advocating the establishment of an Islamic state, and it severely curtailed the freedom of Islamist social movements of like-minded aspiration. Although in the first two decades of his presidency Suharto was viewed as closer in religious observance to the various Javanese mystical movements known as *kebatinan* than to mainstream Islam, in the first years of his rule Suharto banned almost two hundred mystical groups on the grounds that they were leftist or had ties to the Communist Party. The regime also banned atheism (on grounds that it too was linked to communism), required students from elementary school to college to take religious education courses in one of the (then) five state-recognized religions, and elevated a 1965 Presidential Decree (No. 1/PNPS 1965) on Blasphemy and Religious defamation into the Criminal Code. The latter law made it a crime punishable by five years in prison for any individual to express a view seen as serving to “disseminate hatred, misusing, or defaming a religion recognized in Indonesia.” The state also refused to extend state recognition to both *kebatinan* mystical groups and indigenous religions, thereby depriving them of significant social recognition and legal protections (see below). The New Order also banned religious proselytization by one religion to adherents of other state-recognized religions. In short, “The New Order that lasted . . . from 1966 to 1998 made the control of categories part of its state-building policies” (Bowen 2005, p. 153). The regime did so nowhere more insistently than in regard to just who was to be recognized as having a “religion”, and thereby deserving legal and societal protections.

With Indonesia’s return to electoral democracy in 1998, these disputes and legacies have not only carried over but intensified. Now they unfold, however, not under the firm control of a confidently hegemonic state, but in an open and competitive society where some among the state elite appear “more receptive to societal pressures” (Buehler 2016, p. 6; Hadiz 2016). One consequence of the new political ecology of religion has been growing and sometimes violent disputes over just what constitutes a proper and legally tolerable form of religion.

2.1. "Religion" in Dispute: A Short History

There is a deeper history to this conflict over the definition and recognition of different religious traditions. Since the dawn of the Indonesian republic in 1945, most Muslim authorities and some Christian scholars have been reluctant to accept the idea that all traditions involving interactions with supernatural beings or realities should be designated a "religion". Although this reluctance has diminished in some contemporary Muslim circles with the growth of cosmopolitan religious studies in Indonesia's State Islamic Universities (UIN/IAIN), the preference in most government bureaus involved with managing religious affairs still today is to reserve the category of "religion" (*agama*) for those traditions that meet certain specific and quite limiting criteria.

Thus, for example, in clarifications issued by officials in the Indonesian Ministry of Religious Affairs in the early 1950s, the criteria for recognizing a particular ethico-religious tradition as a "religion" (*agama*) included the following: the religion's acknowledgement of a prophet or founding seer; the transmission and study of a canonical scripture (*kitab*) or holy book; a standardized corpus of ritual practices and beliefs, knowledge and performance of which are deemed incumbent on all believers (thus implying some degree of standardized religious education); and a clear and consistent differentiation of local "custom" from religion, premised on the idea that the former may not contradict the latter (Atkinson 1987; Cederroth 1996; Picard 2011; Ropi 2012; Steedly 1993). An additional criterion that was included in later Ministry declarations on religion was that the tradition in question must enjoy a significant measure of international recognition rather than being simply regional or local. This last criterion was intended to disqualify the many hundreds of local or indigenous religious still practiced in Indonesia in the early independence period (Atkinson 1987; Maarif et al. 2019).

It is important to note that these restrictive criteria for defining and recognizing religion were not carryovers from the colonial era or from nineteenth century Protestant missionaries. From the second half of the nineteenth century onwards, the Dutch administration that governed Indonesia until 1942 busied itself with religious matters, but most of its efforts had to do with either supporting Christian missions or implementing policies intended to impede the spread of Islamic missions into areas of the archipelago where Islam was not yet established (Aritonang and Steenbrink 2008; Laffan 2011). Dutch colonialism left few if any legacies for religious freedom.

The state's concern with the definition and regulation of religion increased dramatically in the aftermath of the collapse of the Dutch colony in 1942 and the subsequent run up to Indonesian independence. As World War II was drawing to a close in early 1945, the Japanese occupation government, which had controlled the former Dutch territory since 1942, sponsored the establishment of an Investigative Committee for the Preparation of Indonesian Independence (Badan Penyelidik Usaha-Usaha Persiapan Kemerdekaan Indonesia, BPUPKI) and charged it with devising a constitutional framework for a soon-to-be-declared independent Indonesia. The nationalist leader and future president, Sukarno, selected the committee's sixty-two members, taking care to include representatives from all of the independence movement's primary ideological currents, and appointing a distinguished Javanese aristocrat, Dr. Radjiman Wedyodiningrat, to serve as chair. Radjiman had been a member of Indonesia's oldest, quasi-nationalist organization, Budi Utomo ("Noble Endeavor"; see Nagazumi 1972). Rather more controversially (Kersten 2015, p. 250), Radjiman was a member of the Dutch colony's small but influential Theosophical Society. First organized in the Dutch East Indies during the final years of the nineteenth century, the latter organization had an ethnically diverse membership that included Europeans, native Indonesians (primarily of aristocratic Javanese background), and Chinese; it also had people from different religious backgrounds, including Christians, Muslims, and Javanese mystics. Not unlike their counterparts in other nations of the world, what Theosophists had in common was their twinned convictions that, "God is one, but believers call him by different names", and that all religions share an essential unity and underlying wisdom (Bahri 2017, p. 147).

The Radjiman Committee first met at the end of May 1945. On 1 June, Sukarno presented the body with a first draft of his *Pancasila* or “five principles”, which, despite periodic challenges and varied re-interpretations, have remained the official philosophy of the Indonesian state to this day. Sukarno portrayed the five principles as his distillation of deep-seated pan-Indonesian values. The five principles stipulated that the state was to be based on, not Islam, but a unified and national-state (*kebangsaan*), internationalist humanism (*peri-kemanusiaan*), democracy modeled on Indonesian traditions of consensus and consultation (*permusyawaratan*), social justice (*kesejahteraan sosial*), and recognition of a singular and Almighty God (*ketuhanan*). In the version of the Pancasila eventually incorporated into constitutional documents, the last principle, with its insistence that the state is based on acknowledgment of a unitary God, was put into first position and thus identified as the foundation for the others.

Although Committee delegates accepted the Pancasila with acclamation, over the days that followed representatives from Muslim parties and organizations pushed back against the state philosophy’s failure to recognize either Islam or shariah law among the envisioned republic’s legal foundations. Sukarno responded to this objection by organizing a smaller sub-committee from within the ranks of the Radjiman Committee. He charged the Committee with reformulating the declaration, with the idea that its recrafted principles were to be put in place as the preamble to a constitution to be completed in coming weeks. The sub-committee included representatives from both Islamic and secular-nationalist associations, and on 22 June 1945 it presented its compromise formulation, which was to serve as the preamble to the soon-to-be-declared constitution.

The proposed preamble included a lightly revised version of Sukarno’s Pancasila, with *ketuhanan* / recognition of God now moved into initial position and, more significantly, supplemented with seven additional words, which subsequently came to be known as the “Jakarta Charter” (*Piagam Jakarta*). The latter made clear that the State is not only based on recognition of a singular God, but on a very specific institutional arrangement: “the obligation [for adherents of Islam] to carry out Islamic law” (*dengan kewajiban menjalankan syariat Islam bagi pemeluk-pemeluknya*). In short, the compromise made not just belief in God the basis of the nation, but also required the state to differentiate Muslims from non-Muslims for the purposes of enforcing Islamic law (see [Aritonang and Steenbrink 2008](#), p. 189). The Jakarta Charter thus laid the foundation for what has remained a point of contention to this day: whether the state is to uphold a model of universal and equal citizenship, thus denying what some Muslims regard as key features of their institutional religious freedom; or promote a practice of citizenship differentiated along religious lines—thereby limiting the religious freedom of non-Muslims *and* the many Muslims who preferred *not* to have the state take responsibility for enforcement of Islamic law. There seemed no way around the fact that institutional religious freedom for one group of Indonesian citizens clashed with the individual and institutional freedoms of another.

During the BPUPKI’s second plenary session, which began in mid-July 1945, the place of religion in the state again became the focus of heated discussion. This time it was Christian delegates who came forward, objecting to the Jakarta Charter’s nod to shariah implementation, and warning that inclusion of a shariah mandate would provoke unrest in Christian areas of eastern Indonesia, as well as in those Muslim regions, such as West Sumatra, where customary arrangements in matters of inheritance (among other things) depart from classic Islamic legal norms. Although Muslim delegates at first staunchly rejected these new demands, they eventually relented. Eleven days later, and one day after the August 17th declaration of independence, the PPKI formally approved the draft constitution, and declared Sukarno and Hatta President and Vice-President respectively. Before they did so, however, Mohammad Hatta—a pious Muslim from a well-regarded Minangkabau Muslim family, but also a staunch opponent of proposals to establish an Islamic state—met in private with Muslim delegates and explained that a Japanese naval officer in eastern Indonesia had informed Sukarno and Hatta that if the Jakarta Charter was not removed from the preamble, the largely-Christian east had threatened to secede.

In his memoirs, Vice President Hatta recalls that the Muslim delegates reluctantly agreed to the deletion of the seven words in the interest of national unity.

As has been widely noted (Elson 2013), however, one reason the Muslim delegation agreed to the compromise is that they were confident that national elections would be held within the next year or two, and Muslim parties would easily prevail. Having won the election, it was assumed the Muslim parties would then be able to revise the constitution in a manner accommodating of state-enforced Islamic law—enforcement that, again, many Muslim delegates saw as vital for their institutional religious freedom. As it turned out, national elections would not be held until 1955. In those elections and all organized since, Muslim proponents of state-enforced shariah were to find that the majority of voters declined their appeals. Efforts to have the state implement Islamic law for all Muslim citizens were to be renewed only decades later, with the return to democracy after the fall of Suharto's New Order in May 1998 (Buehler 2016; Feillard and Madinier 2006; Salim 2008).

2.2. The Politics of Religious Recognition

Buried within the new constitution were several additional articles that, rather than resolving disagreements over religion and state, would only make them the focus of more bitter contention in years to come. Foremost among these was the Constitution's Article 29, which directly addresses the question of freedom of religion and conscience. In the second draft of the constitution (the version incorporated into the 1945 Constitution), the article makes clear that the state "guarantees (*menjamin*) the freedom (*kemerdekaan*) of each inhabitant to profess his or her religion (*agamanya*) and to worship (*beribadat*) according to his or her religion or spiritual belief (*kepercayaan*)". Although the phrasing at first seems to echo the United Nations' Universal Declaration on Human Rights, a closer look reveals the protections it provides for individual and institutional religious freedom are more limited.

Although the term has always been subject to diverse interpretations, today in state and many societal circles in Indonesia the second religious reality referenced in Article 29, *kepercayaan* or "spiritual beliefs" (or, alternately if less literally, "spiritual traditions"), is a term typically reserved for those categories of ethico-religious heritage that are assumed to involve mystical disciplines of some sort but ones *not* seen by state officials and others as fulfilling the criteria to fully qualify as a "religion". In official policy as well, the term *kepercayaan* is in turn used to refer to, not one, but two varieties of spiritual tradition, neither of which is deemed a full "religion". These two traditions are, first, local or indigenous religions (*agama leluhur*) long practiced by Indonesia's small-scale communities (Atkinson 1987; Maarif et al. 2019); and, second, new mystical social movements, such as those popular in Java and a few other areas of the archipelago, and often also referred to as *kebatinan* (from the Indonesian and Arabic term, *batin*, "inner", "inner self", interior experience; see Stange 1986).

Inasmuch as in official circles today *kepercayaan* traditions enjoy weaker societal and legal standing than religions, it seems curious that the term *kepercayaan* was inserted at all into Article 29 of the Indonesian constitution and thereby accorded protections in principle comparable to those of *agama*/religion. That this came to be the case was in no small part the result of the handiwork of one man on the Wadjiman committee: Wongsonegoro (1897–1978; see Stange 1986, p. 88). In the early independence era, Wongsonegoro was one of Indonesia's most distinguished nationalists; he was also arguably the single most influential *kebatinan* leader in the country's history. The premier historian of *kebatinan* mysticism in modern Indonesia, Paul D. Stange (1986, p. 89), has aptly referred to Wongsonegoro as "the father of the political mystical movement during the fifties".

At the time of the constitutional debates over religion and spirituality in the 1940s, Wongsonegoro's insertion of the term *kepercayaan* into Article 29 verse 1 may well have been a deliberate tack designed to take advantage of another ambiguity in the term's meanings. Although even in those years most state officials understood *kepercayaan* as a type of spiritual tradition less authoritative than religions/*agama*, some Indonesians used the term to also refer to the personal manner in which each individual experiences

his or her religion, be it Islam, Christianity, or some other ethico-religious tradition. This understanding of *kepercayaan* aims to encourage the state, not just to recognize another variety of spiritual tradition (whether indigenous or mystical), but to recognize that even full-blown “religions” are experienced in deeply personal and varied ways by those who profess them. In an important re-analysis of previously unanalyzed records of the May 1945 meetings of the BPUPKI independence preparatory committee, in 2019 Zainal Abidin Bagir of Gadjah Mada University discovered that transcripts from the meetings indicate that Wongsonegoro pressed for the inclusion of the term “*kepercayaan*” in the constitution on just these grounds. The inclusion of the phrase, then, was intended to underscore that “the expressions of a religion are not singular or uniform” (Bagir 2020, p. 43). Inasmuch as this was so, all efforts to impose a uniform practice of religion (such as that which might be required if the state sought to implement Islamic law) violated Indonesia’s constitutionally sanctioned freedom of religion.

It goes without saying that this alternate interpretation of the meanings of spirituality and religion in the 1945 constitution did not settle the matter. In fact, this was just the opening salvo in a debate over how to know and recognize “religion” that has continued to this day. With the establishment of the Ministry of Religious Affairs on 3 January 1946, the question of just what constituted a religion, and of what institutional freedoms that designation authorizes, was no longer a matter of obscure constitutional negotiations, but one fought over in state agencies and society (Boland 1971, pp. 105–12; Ropi 2012).

Two opposing camps soon emerged even within state ministries with regard to this matter of religion’s definition and institutional freedoms. During the first twenty years of the republic’s existence, representatives from the Ministry of Culture and Education, made up disproportionately of Indonesians of secular nationalist orientation, quietly but consistently sought to expand the number of religious communities recognized by the state, and thereby extend state protections and religious freedoms to those citizens who happened to profess faith traditions not yet recognized as official *agama*/religions. On the other side of this issue, officials working in the Muslim-dominated Ministry of Religious Affairs struggled to narrow the range of religiosities recognized as “religions”, while also trying to promote more orthodox professions of Islam among those citizens who self-identified as Muslim.

In 1952, and in response to inquiries from representatives in the People’s National Assembly, officials from the Ministry of Religious Affairs made clear that they were determined, not to expand the list of state-recognized religions (or do away with it entirely, as some secular-minded nationalists wished), but to limit recognition to those ethico-religious traditions that displayed the features of “true” religion (Hidayah 2012). The latter features included those mentioned earlier in this essay: recognizing a prophet or seer, a holy book, a monotheistic-like supreme being, as well as performing and socializing regularized rituals or worship. In 1961, and once again in response to debates taking place in the People’s National Assembly, the Ministry released a like-minded statement on just what it recognized as a religion, now adding to the list of characteristics a new requirement: that a religion should “be an encompassing way of life with concrete regulations”, and “a teaching about the oneness of God” (*ketuhanan*; Hidayah 2012, p. 128). In all these regards, one should note, the criteria for recognizing a religion drew, not on Protestant privatist prototypes as some contemporary scholars of religion have assumed (Asad 2003; Shakman Hurd 2015; Mahmood 2015), but on modernist Muslim notions of religion as *din* (Ar., “religion”, “creed”)—which is to say a divinely enjoined way of life as well as a tradition of worship.

Slowly but surely, the Ministry of Religion’s restrictive view of what can be deemed “religion” gradually became ascendant over the neutral or egalitarian view favored both by many religious minorities and by secular nationalist Indonesians (Kersten 2015, p. 230). The social forces promoting this culture shift in knowledge and practice were, of course, not merely theoretical or intellectually based. They had instead to do with momentous political contests taking place in Indonesian society, the effects of which are still felt in Indonesia today.

2.3. Indigenous Spiritualities Denied

The broader background to these developments had to do with what many scholars of Indonesian religions once regarded as the two most distinctive features of religious plurality in modern Indonesia: the survival into late modern times of ethnically-based or otherwise “local” religions, which in the later *Reformasi* period have also come to be known as “ancestral” religions or *agama leluhur* (Maarif et al. 2019); and, second, the survival of localized varieties of Islam not recognized as properly Islamic by the religious leadership of the archipelago’s Sunni majority, but regarded as “Islam” nonetheless by their practitioners. It was these sociological realities that gave special urgency to the unceasing efforts of Muslim officials in the Ministry of Religious Affairs and the country’s mainline Muslim mass organizations to promote the continuing ascendancy of “religion” over “spiritual belief”, and to extend full institutional religious freedom only to the former, i.e., religion/*agama*.

In the early independence era, the religion-belief binary embedded in the 1945 Constitution and adopted even by many Muslim activists was not yet widely employed by the many local, tribal, or chiefdom-based societies that had recently been drawn into the new Indonesian nation. In those years, there were still hundreds of thousands of tribal and traditional Indonesians in interior portions of the archipelago who practiced local or indigenous religions (Aragon 2000; Atkinson 1987; George 1996; Hoskins 1987; Kuipers 1998; Tsing 1993, pp. 54–55). Although a few could be found even in the densely-populated interior of Java (Hefner 1985; Wessing 2017), most of these peoples lived in remote island and inland forest areas on what used to be known as Indonesia’s “outer islands” (“outer” in the sense of outside Java-Bali). Although never entirely isolated from their Muslim neighbors, these populations had nonetheless remained relatively aloof from the great flow of commerce, people, and culture that brought Islam to the archipelago from the thirteenth century onward (Lombard 1990; Reid 1993).

When referring to their own religious traditions, many of these non-Islamic hinterlanders either ignored the religion/belief binary entirely so as to use indigenous terms to refer to their faith traditions, or referred to their traditions with the same word as did Muslims and Christians, which is to say as an *agama*/religion (see Aragon 2000; Atkinson 1987; Hefner 1985; MacDougall 2005; Picard 2011). Whatever their preferred terminology, in the early republican era most of these indigenous peoples were convinced that their own religious institutions were every bit as deserving of state recognition as Christianity or Islam, and most rejected the idea that they should give up their local faith for some state-sanctioned religion. By contrast, the hopes and the expectation among proponents of *agama* were that modernist progress and cultural enlightenment would slowly but surely bring the followers of these “backward” traditions into proper and true religious institutions and the freedoms and responsibilities they entail (Atkinson 1987; Makin 2016, p. 124).

For twentieth-century Muslim scholars and activists, including those affiliated with the otherwise proudly nationalist Muhammadiyah and Nahdlatul Ulama, there has always been a larger and even more problematic category of religious community than the small number of Indonesians who continue to practice indigenous or local religions (*agama leluhur*). This larger community of communities above all included the millions of Indonesians who called themselves Muslim, but who subscribed to cosmologies and religious practices at odds with those recognized by mainstream, madrasa-educated Sunni Muslims. Dutch missionaries and scholars working in Java in the mid-nineteenth century were the first to devote substantial attention to this community of “syncretic” or otherwise “non-standard” Muslims (Kruithof 2014, pp. 111–21; Ricklefs 2006, pp. 89–104). When, in the early 1950s, Western anthropologists such as Clifford Geertz (1960) and Robert Jay (1969) carried out ethnographic research in rural Java, they too realized that the non-standard Muslim community was vast—indeed a majority among the 50% of the population that was (at that time) ethnic Javanese. Among these latter populations, non-standard Muslims were sometimes referred to as *abangan*, lit., “red”, or, alternately, *kejaven*, “Javanists”.

Most Western scholars of Indonesia at this time assumed that the bulk of the religious tradition to which Java's *abangan* adhered was a mix of Hindu–Buddhist and animist practices beneath a light Islamic garb (Geertz 1960; Jay 1969). Today we know that such characterizations greatly exaggerate the influence of “Hindu–Buddhism” in Javanese culture, and fail to take seriously that almost all of these non-standard Muslims regarded their localized ritual and cosmological traditions as legitimately Islamic (see Daniels 2009; Woodward 1989). Rather than being Hindu–Buddhist, the ritual traditions to which the *abangan* were heir were more directly representative of a Sufism-inflected variety of Islam associated with an earlier and less legalist variety of Islam that had swept across Southeast Asia from the 13th to 19th centuries. These earlier waves of Islamization had organized religious life around ritual meals (*slametan*), the veneration of the Prophet Muhammad and Muslim saints, pilgrimage to saint shrines and other sites of spiritual power, and, most controversially from a reformist Muslim perspective, food offerings to ancestral and guardian spirits. Although today many modern Muslims regard these traditions as heterodox, these practices had counterparts in broad swaths of the early modern Muslim world prior to the rise of modern scripturalist reform (van Bruinessen 1999; Ahmed 2015). Although the phrase *abangan* was not used for self-identification among any ethnic grouping other than the Javanese, elsewhere in early-independence Indonesia there were other populations who identified as Muslim while subscribing to cosmologies and ritual practices that the growing community of shariah-minded Muslims regarded as inauthentically Islamic—and thus undeserving of institutional religious freedom (see Avonius 2004; Bamualim 2015; Sakai 1999).

Western scholars and many native Javanese contrasted the *abangan* and their counterparts in other areas of Indonesia with the more legal-minded wing of the Muslim community, who were alternately referred to as “whites” (*putihan*) or *santri*. Tellingly, the latter term refers to Muslims who have spent time in *madrasa* boarding schools, which in Java and most of Indonesia are known as *pesantren* (lit., “place of the santri”) or *pondok pesantren* (“domicile for santri”; see Azra et al. 2007). In Indonesia and most other parts of the Muslim-majority world, *madrasas* are boarding schools for intermediate and advanced study in the Islamic sciences, including the most socially applied of those sciences, Islamic jurisprudence (*fiqh*; see Berkeley 1992; Makdisi 1981). The social and geographic spread of this “santri” Islam, then, was part and parcel of the growing influence of a more shariah-minded Muslim community in Indonesia from the late nineteenth century onward. The growth of this same community created huge social pressures *against* any proposal to extend state recognition or institutional religious freedom to non-standard Muslims.

The persistence of communities of people self-identifying as Muslim but preserving ritual practices and cosmologies that scholars trained in the Islamic sciences regard as heterodox is, of course, not something peculiar to Indonesia. Non-standard professions of Islam remained commonplace in modern times even in regions that had experienced far-reaching processes of Islamization in territories such as Bengal in South Asia (Eaton 1993; Roy 1983) or Syria, Iraq, and Iran in the Middle East (Kehl-Bodrogi et al. 1997; van Bruinessen 1999). Here in Indonesia, however, tensions surrounding such communities of non-standard Islam were exacerbated by the fact that in some regions in the late 1950s, and especially in populous Java, such non-standard Muslims also comprised the backbone of the country's two most important non-Islamic parties, namely, the Indonesian Nationalist Party (PNI) and the Indonesian Communist Party (PKI). In Java, in particular, the first fifteen years of the new Indonesian republic saw the explosive growth of the new religious movements referred to above, and known as *aliran kepercayaan* or *aliran kebatinan*, and many developed ties to the Indonesian Nationalist and Communist Parties. This trend only added to the certainty in Muslim circles that the existence of such non-standard Muslim communities was not a matter of institutional religious freedom but politically-inspired irreligiosity. Staffed disproportionately by well-educated Muslims from Muhammadiyah and Nahdlatul Ulama (Boland 1971, pp. 105–12), officials in the Ministry of Religious Affairs (MORA) in the 1950s were convinced that a minority of activists in the Nationalist

and Communist Parties were encouraging apostasy from Islam so as to strengthen their bases of political support.

In keeping with the mobilizational spirit of the early independence period, in 1951 the politician that we saw above who had played a role in the meetings leading to the recognition of “spiritual beliefs” in the 1945 constitution, Wongsonegoro, made a new appearance on the national scene. Over the course of the year, he traveled across Java in an effort to create a federation of mystical (*kebatinan*) groups, which eventually came to be known as the Committee for the Organization of Philosophy and Mysticism’s Meeting (Panitia Penyelenggara Pertemuan Filsafat dan Kebatinan). In 1955, he joined forces with the leaders of other *kebatinan* groups to form the Congressional Body for Indonesian Kebatinan (*Badan Kongres Kebatinan Indonesia*; Mulder 1978, pp. 4–6). In 1957, the Congress issued a declaration stating that the first principle of the Pancasila, with its affirmation of belief in an almighty and unitary God, was actually a concept inspired by *kebatinan*, not by Islam. Even more worrying in the eyes of Muslim officials, Congress representatives declared boldly that their spiritual traditions were actually the “original religion” (*agama asli*) of all Indonesians. Others in the *kebatinan* community spoke disparagingly of Islam as “an imported religion” or a “religion of the Arabs” (Ropi 2012, p. 141; Bamualim 2015; Mutaqin 2014, p. 9).

Alarmed by the wildfire spread of *kebatinan* groups, in 1952 the Ministry of Religious Affairs established a new ministry desk for monitoring mystical and spiritual groups. Over the years the desk (which is operative still today) came to be known as the PAKEM—the Supervisory Bureau for Aliran Kepercayaan in Society (*Pengawas Aliran Kepercayaan Masyarakat*; Ropi 2012, p. 132; Stange 1986, p. 82). Benefiting from the Ministry of Religion’s unmatched penetration into Indonesian society, PAKEM bureaus were soon established in towns and sub-districts across Indonesia. As far as MORA officials were concerned, the first-duty of the PAKEM was not merely to monitor and supervise, but to do away with *kebatinan* groupings entirely by bringing their adherents back to Indonesia’s state-recognized religions (*agama*).

Another ambition of the MORA initiative was to block *kebatinan* groups’ efforts to win state recognition as a “religion” (*agama*) rather than a “spiritual belief” (*kepercayaan*). At its third congress in 1957, the Kebatinan Congress appealed directly to President Sukarno to extend legal recognition to *kebatinan* groups equal to that of the country’s state-recognized religions. At its fourth congress in 1960, Congress members asked not merely for equal legal standing but state funding (Ropi 2012, p. 135). Although his mother was a Hindu-Balinese and many of his most ardent supporters were known for their *kebatinan* and/or indigenous beliefs, Sukarno remained uncharacteristically silent in the face of these appeals.

2.4. The Birth of the Blasphemy Law

It was in this turbulent political and religious context, then, that President Sukarno issued a presidential edict that was to mark a turning point in the state management of religion from the 1960s to today, although at the time few observers could have imagined its enduring impact. The declaration was his Presidential Stipulation No. 1/PNPS/1965 on “Preventing the Misuse and Defamation of Religion”. The main target of the regulation was none other than the *aliran kebatinan* groupings. These were regarded, not as religions deserving of institutional religious freedom, but as “a source of social disorder, national disintegration and religious ‘confusion’ in society” (Ropi 2012, pp. 139–40). This rationale was stated even more explicitly in the Elucidation to the 1965 Presidential Edict. It urged the government to take action, so as to lead the followers of *aliran kebatinan* back “to a healthy vision in accord with the direction of *Ketuhanan Yang Maha Esa*” (ibid.). The Elucidation was not so much a formula for restricting mystical groups’ institutional religious freedom, but doing away with it entirely.

The fact that in January 1965 it was President Sukarno who put in place the legal foundation for far-reaching controls on religion and heterodoxy has long struck some Indonesian observers as paradoxical, because the community that was most harmed by

the regulation was the Javanese mystics and various non-standard Muslims who figured among Sukarno's most loyal followers. However, the rationale for the edict lay less in the president's personal religious preferences than in his determination to hold up an eroding base of support in the Muslim wing of his ruling coalition. A few years prior to issuing the presidential stipulation, Sukarno had dismissed Indonesia's Parliament and introduced a presidentially-dominated "Guided Democracy" (Feith [1962] 2006; Lev 1966). In an effort to forge a new government, Sukarno hobbled together an implausible alliance built on his concept of NASAKOM, an acronym for (the unity of) "Nationalism-Religion-Communism". As the acronym implies, the coalition was designed to rest on three sociopolitical pillars: Sukarno's own nationalist supporters; the (as of the early 1960s) even larger Indonesian Communist Party; and, most improbably of all, the wing of the Muslim community associated with the traditionalist and fiercely anti-communist Nahdlatul Ulama (see Boland 1971, p. 102; Fealy 2003, pp. 229–44).

A teetering edifice from the start, by late 1964 the three partners in the NASAKOM alliance had fallen into bitter infighting. In the East and Central Java countryside, mass groupings associated with the PKI and NU respectively had clashed with each other, in contests initiated in the first instance by PKI attempts to use "unilateral actions" (*aksi sepihak*) to enforce certain legislated but as yet un-fulfilled agrarian reforms. Not coincidentally, some of the PKI's mobilizations targeted the landholdings of NU educators—a social class that served as the economic base for the country's powerful network of rural Islamic boarding schools (Dhofier 1999; Hefner 1990). Not surprisingly, too, NU and its supporters responded in kind, mobilizing their own militias in a fierce and effective push-back against the PKI campaign. All this was to prove a dress rehearsal for the horrific violence of late 1965, in the aftermath of the failed 30 September coup (see Fealy and McGregor 2010, p. 40).

This conflict between ostensible allies in the NASAKOM coalition gave strategic urgency to Sukarno's issuing of the presidential stipulation on religious blasphemy and defamation. However, what made the edict of particular interest to NU and others in the Muslim community was not coalitional politics or agrarian class struggles but a matter of a more specifically religious nature—the threat posed by *kebatinan* groups to Muslim hopes to press forward with the Islamization of the country's diverse Muslim populace. What made the defamation edict of such lasting and pivotal influence, however, was that it affected not just *kebatinan* groups but the entire landscape of state regulation of religion in Indonesia. In particular, buried in the edict's four articles were two regulations long advocated by senior officials in the Ministry of Religious Affairs as well as by the country's mainline Muslim social organizations, but strongly opposed by the country's secular nationalists, religious minorities, mystical groups, and the Nationalist and Communist leadership.

The first of these two measures introduced, for the first time in the republic's history, a state list of just which among the nation's many faith traditions it officially recognized as "religions" (*agama*). The edict did not attempt to provide a definition for religion as such, and no legislative document (as opposed to Ministry communications) has ever done so since. As discussed above, the Ministry of Religious Affairs had long argued for the state's creation of such a list, and had insisted that it should be based on a restrictive rather than a capacious understanding of religion.

Sukarno's edict did not explicitly endorse this MORA position on religion. However, in one important regard the edict went further, identifying six faith traditions as recognized by the state: Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism. Representatives from the last three communities had been petitioning MORA officials since the early-1950s to receive just such official recognition. After much hard work, in 1963 Hindus and Buddhists had been provided with bureaus in MORA (Bakker 1993; Ramstedt 2004). Although Confucianism was included in the edict's list, it had not yet been given a bureau in MORA, and it would not be until 2000, when President Abdurrahman Wahid finally extended full state recognition to Confucianism.

The second of the two regulations buried deep in the 1965 presidential edict represented an even greater concession to the aspirations and world view of mainline Muslim

organizations, and a serious blow to the country's spiritual-belief and mystic minorities. Article 1 of the Defamation law prohibited all state support for spiritual movements deemed to be "deviating from" (*sesat*) or showing "enmity" toward the country's state-recognized religions (Crouch 2014, pp. 22–23, 161–63; Lindsey and Butt 2016, p. 24). Articles 2 and 3 put in place sanctions through which the president can warn, ban, or jail those who misuse or defame any of Indonesia's recognized religions. Article 4 put in place provisions (art. 156a in the *Kitab Undang Undang Hukum Pidana*) threatening violators with up to five years of imprisonment. In short, the 1965 edict laid a legal foundation for the defense of what the mainstream Muslim community regarded as religious orthodoxy and the prosecution of all deemed heterodox.

Curiously, and notwithstanding their far-ranging scope, the 1965 and 1969 regulations did not result in a groundswell of prosecutions against alleged religious deviants. In the period from 1965 to the dawn of democratic reform in 1998, only about ten cases were brought to court (Bagir 2013). By contrast, in the first five years following the return to electoral democracy in 1998–1999, some 130 cases were prosecuted (Crouch 2014, p. 138).

Although few prosecutions were brought in the years following the issuance of these regulations, the two regulations had a severely constraining effect on Indonesia's religious minorities, not least on mystical movements such as the *aliran kebatinan* (Hefner 2011). In the years following the 1965–1966 massacres, some 1.75 million people—most of them Javanist Muslims or former adherents of kebatinan spirituality groups—converted to Christianity, many in the hope that Christianity might provide a safer shelter than kebatinan against allegations that one might be a communist (van Akkeren 1970; Boland 1971, pp. 232–33). Approximately one-sixth that number of people converted to Hinduism, although, unlike the Christian converts, a good number of these Hindu converts returned to Islam several years later (Hefner 2004; Ramstedt 2004).

These examples show that the Defamation law's most lasting influence has had less to do with benefits to any single religion than it did a more general effect on the normative understanding and regulation of religion and institutional religious freedom. The legislation extended public legitimacy and state support to the category of faith-traditions officially recognized as "religion"/*agama*. Officially, of course, "spiritual beliefs"/*kepercayaan* were still listed in Article 29 of the 1945 constitution as benefiting from state protections. However, the Law on Religious Blasphemy and Defamation had put in place a clear and unambiguously asymmetrical hierarchy between religion and spiritual beliefs, and as the New Order advanced—and as Indonesia's Islamic resurgence gained momentum—social and political developments veered against extending state recognition and institutional religious freedom to the adherents of mystical and spiritual traditions. By the late 1990s, these developments had converged to make spirituality traditions more vulnerable than ever to attack by conservative Islamist activists. In the more open and agonistic atmosphere of the post-Suharto Reformasi era, this latent possibility would become an increasingly common and violent reality.

In one sense, there is a bitter irony to these changes. It is that, although in its first years the authoritarian New Order (1966–1998) banned a few left-leaning *aliran kebatinan* and put in place a series of regulations to control religious life (especially political Islam), it remained tolerant of religious minorities, including non-political varieties of *aliran kebatinan* mysticism. Suharto himself was known to have dabbled in the kebatinan sciences in his youth and middle years. One of his two closest personal aides during those years, Sujono Humardani, was a practitioner of Javanese mysticism and an ardent defender of kebatinan interests (Hefner 2000, p. 83; Ricklefs 2012, pp. 118–24). However, from the late 1990s onward, and in the face of a growing Islamic resurgence and opposition from former allies in the military, the president made extensive concessions to conservative (as opposed to prodemocracy) Muslim groupings, particularly on matters related to institutional religious freedom (Effendy 2003; Hefner 2000). Even then, however, Suharto steadfastly ignored demands from his new Muslim allies to take action against religious minorities, whether kebatinan adepts or Ahmadiyah Muslims. It was only after Suharto's fall and democracy's

restoration that acts of violence against Ahmadis, Shi'a, *kebatinan* followers, and other religious minorities escalated dramatically (see Crouch 2014; Human Rights Watch 2013).

One of the most substantial effects of the Defamation regulations, then, has been that the regulations have provided a legal ground for the way both government and society in Indonesia imagine, regulate, and practice religion. In discursive terms, the consolidation has involved a shift from a relatively unmarked and symmetrical religion-belief binary to a starkly asymmetrical one.

It was this change that was so vividly confirmed in a ruling by the Constitutional Court in 2010. In the face of a bitter opposition from religious-freedom advocates, and in the aftermath of several attacks on Indonesia's small Ahmadi community and other "non-standard" Muslims, the Supreme Court upheld the Law on Religious Blasphemy and Defamation (Bagir 2013; Butt 2016; Lindsey and Pausacker 2016). The landmark ruling effectively confirmed what appeared to have become the new operating consensus on religion and state among political elites and many Indonesians. The ruling made clear that Indonesia was not an Islamic state. However, it simultaneously affirmed the state's right and duty to define, promote, and otherwise regulate religion for the purpose of piety, public safety, and morality. At the center of these developments has been a far-reaching shift in popular and elite understandings of religion, away from the capacious plurality of traditions and practices conceived as "religious" by ordinary citizens during the first years of the republic to a narrower and more state-standardized religious form.

The Court's ruling was deeply disappointing to Indonesia's human-rights and Muslim democratic community, as well as religious minorities. From a law-in-society perspective, however, the Court's ruling was neither startling nor radical. It was the legal culmination of a broader struggle that had its roots in the early- to mid-twentieth century, and which had long divided the proponents of opposed ways of defining religion and implementing institutional religious freedom.

3. Conclusions: Freedom's Contingencies

By way of conclusion, I would like to make two points, both of which are intended to brighten this somewhat dark summary of institutional religious freedom in Indonesia. Notwithstanding the dramatic shift in Indonesian public opinion with regard to religion and spiritual belief, other developments in contemporary Indonesia have served to expand institutional religious freedoms and, no less important, strengthen democracy in this Muslim-majority country. As Jocelyne Cesari has recently and so vividly reminded us (Cesari 2018), Indonesia is one of just two Muslim-majority countries (the other being Tunisia; see Zeghal 2016) who have made a successful transition to a more-or-less fully functioning electoral democracy over the past two decades.

The Indonesian transition was not a story of linear progress toward liberal democracy, but it was significant and impressive nonetheless. During the first years of the transition, the country's Jakarta-based national leadership made steady progress toward the consolidation of key democratic institutions, including free and fair elections; freedom of the press, assembly, and labor; the strengthening of a balance of powers between the executive and the legislature; and the withdrawal of the armed forces from parliament and formal politics. The results of the national elections held every five years from 1999 to 2019 confirmed that, although of two minds on religious freedom and minorities, most of the Muslim electorate preferred to prioritize government services and economic growth over any effort to change the constitutional foundation of the state (Pepinsky et al. 2018; Warburton and Aspinall 2019). In addition, democratic Indonesia witnessed the continuing expansion of Muslim-based non-governmental organizations, including those dedicated to citizen equality, women's rights, and fair-play in democratic elections (Rinaldo 2013; Robinson 2009; Smith-Hefner 2019).

Certainly, there were counter-currents to these Muslim-democratic trends. After the transition's buoyant early years, Reformasi Indonesia witnessed the steady growth of new and assertive varieties of conservative Islamism, expressed most vividly in a proliferation of

vigilante groups. Although a few of these movements benefited at times from the backing of state elites and economic oligarchs, most were small associations based in urban and semi-urban neighborhoods (*kampung*) where economic hardship, an upsurge in crime, and the retreat of state security forces created an opportunity and need for new mechanisms of moral order and public safety. As the Reformasi era moved forward, however, several groupings gained ascendancy over the others, forming large militias (*laskar*) with tens of thousands of followers. As with the Amphibi militia in Lombok (Kingsley 2010; Telle 2013), some of these mass-based militias were linked to existing Muslim mass organizations and were concentrated in just one province or among one ethnic group. Others, however, were organized into nation-wide structures under quasi-military commands. By 2005, the largest of these national organizations, the Islamic Defenders Front (Front Pembela Islam, FPI), had established branches in 31 of the country's 34 provinces and claimed a membership of ten million (see Wilson 2006, 2008). Its actual active membership almost certainly numbered less than 100,000, but its alliances and deal-making allowed it on occasion to mobilize like-minded militants several times that number. No less significant, the FPI and other Islamist militias have played a central role in the mobilization against non-Muslim minorities and non-standard Muslims. One well-known example of such campaigns was the huge Islamist mobilization in 2016–2017 against the Christian Chinese governor of Jakarta, Basuki Tjahaja Purnama (Fenwick 2017).

To the consistent surprise of Indonesia nay-sayers, however, the mainline currents in Indonesian Islam, especially those associated with the Nahdlatul Ulama and Muhammadiyah have rallied against the Islamist surge. There is a deeper history to these efforts, one that suggests that institutional religious freedom in an Indonesian and Muslim form has real social roots. As the theorist of comparative democratization, Alfred Stepan (2014, p. 286), has observed, beginning in the 1980s, public intellectuals and leaders from this country's two mass Muslim organizations, Muhammadiyah (25 million members) and Nahdlatul Ulama (50–60 million), produced a "core scholarship" that disseminated Islamic rationales for pluralist democracy to the Indonesia's wider Muslim public (Abdillah 1997; Hefner 2000). This initiative in Muslim society was in turn complemented by equally extensive reforms in Muslim higher education. The government-supported, State Islamic University system (UIN/IAIN) and the private, Muhammadiyah-owned network of (which today has more than 160 colleges) undertook curricular reforms and faculty training programs that sought to expand their educational offerings beyond the conventional Islamic sciences, to include economics, education, medicine, and law (Hefner 2009; Kraince 2007; Jabali and Jamhari 2002). At the forefront of the sciences of the world needed for today's challenges were social sciences seeking to understand modern democracy and citizenship, as well as the Muslim ethics required to realize both. In this same spirit, the democracy-minded educators also welcomed the opportunity to lead the way—as they have since the 1990s to today—in the development of reform-minded curricular materials on Islam and democracy, civic education, gender equality, and the adaptation of Islamic law and ethics to the realities of the modern world (Abdillah 1997; Feener 2007; Jackson 2007; Jabali and Jamhari 2002). Specialists of Islamic education and democratic reform across the Muslim world have long emphasized the critical role played by teacher training and curricular reform in Islamic higher education in efforts to promote democracy and inclusive citizenship (Doumato and Starett 2007; Herrera and Torres 2006). No country's Islamic higher educational system has played a role more decisive than Indonesia's in just such a reorientation of Islamic knowledge and politics.

These initiatives demonstrated that the central current in the Muslim wing of the democracy movement had put in place a social linkage regarded by two leading theorists of democratization, Guillermo O'Donnell and Philippe Schmitter, as necessary if not sufficient for a successful transition from authoritarian rule: a coalitional structure linking "exemplary individuals" knowledgeable of and committed to democratic reform to mass organizations in society (O'Donnell and Schmitter 1986, pp. 48–56). With a few notable exceptions (Bayat

2017, pp. 147, 217), Middle Eastern countries involved during the Arab spring were unable to establish a linkage of comparable force and duration (Brown 2013; Volpi 2013).

One additional contrast with other Muslim-majority countries highlights the significance of these initiatives for the ways in which most Indonesian Muslims understand and practice Muslim public ethics and democratic politics. It is widely recognized that, in many Muslim-majority lands, the late twentieth century's "Islamic awakening" (Ar., *sahwa*) gave rise to efforts by growing numbers of believers to channel their religious enthusiasm into support for campaigns to implement a legislatively-codified and state-enforced variety of "Islamic law" (*shariah*). The fact that such a model of Islamic law has no precedent in classical Islamic history and in fact represents a "a triumph of European models" (Zubaida 2003, p. 135) rather than a return to authentic Islamic tradition has not dampened the enthusiasm of its Islamist promoters. Islamist mobilizations in support of "shariah" surged in Egypt, Tunisia, and Morocco in the years following the Arab uprisings (Volpi and Stein 2015), and in northern Nigeria after the return to electoral democracy in the early 2000s (Kendhammer 2017). In all of these countries, "a wave of political openings . . . generated new demands for the codification and application of Islamic law in the public and private lives of citizens" (Kendhammer 2017, p. 3; cf. Peletz 2020).

On this key point, however, Indonesia again seems distinctive, in a manner that underscores the crucial role played by the country's Muslim leadership in the reshaping of Muslim knowledge and its ethical and political priorities. Between 2000 and 2002 the Muslim-dominated National Assembly rebuffed Islamist proposals to change the constitution so as to require the state to implement the Islamists' model of "Islamic law" (*shariah*) for all Muslim citizens (Elson 2013; Hosen 2007; Salim 2008). The effort was opposed by a broad-based party coalition, but opposition to the amendment from the leadership of the Muhammadiyah and Nahdlatul Ulama was especially decisive in ensuring the amendment's defeat. The outcome of the national and regional elections held every five years since 1999 offers additional evidence of this Muslim democratic current. In the national elections held every five years since 1999, political parties dedicated to promoting state-enforced shariah have consistently polled 20% or less of the vote (Fealy 2016).

These and other developments show that public and elite opinion with regard to religion, state, and institutional freedom has changed, but the change is complex and variegated. On one hand, the 2010 ruling by the country's Constitutional Court has made clear that Indonesia is not an Islamic state, but has also affirmed the state's right and duty to define, promote, and otherwise regulate religion for the purpose of piety, public safety, and morality. On the other hand, in 2017 the same court surprised the nation, and especially Muslim conservatives, when it responded to a petition initiated by a group of followers of indigenous religions and mystical associations, supported by a Yogyakarta-based NGO, Satunama. These groups petitioned the Court to allow the followers of indigenous religions and *kepercayaan* to fill in the name of their belief system in the "religion" column of the ID card. The prior regulation, reinforced in a 2006 law, stipulated that the followers of such "unrecognized" religious or belief traditions had to fill in the religion column with the name of one of Indonesia's six "recognized religions" (Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism)—or leave the column blank. The latter option was actually an improvement on the previous law, in that it provides a seventh option of leaving the religion box blank, but it was seen by the petitioners as still leaving room for state discrimination and social stigmatization. The Court's acceptance of the petition disrupts the long-accepted definition and boundaries of religion in Indonesia by implying that the category of "religion" should be understood to also include spiritual beliefs or *kepercayaan*.

A number of Muslim groups were startled by and protested the court's ruling and felt that the decision was against what they regard as the "national consensus". Din Syamsudin, the former head of Muhammadiyah and a member of the Board of Advisors of the Indonesian Council of Ulama, stated categorically that *kepercayaan* or indigenous religions are different from (true) religion. Although the national Christian association of

churches (PGI) welcomed the decision, a good number of Protestant churches, especially evangelicals, voiced similar objections to the court decision. The Constitutional Court's decision remains controversial, then, but it underscores that institutional religious freedoms for minority religions and spiritual groups may yet improve.

There is a second and more general conclusion to be drawn from the Indonesian example. As is well known, the theme of the modern "invention" of the category of religion has been a pervasive one in religious studies over the past. Inspired by the insights of the anthropologist Talal Asad (Asad 2003), many analysts have assumed that the category of religion constructed and enforced in most of the modern world is, as Asad argued, "a modern, privatised Christian one because . . . it emphasises the priority of a belief as a state of mind" (Asad 1983, p. 247; Mahmood 2015) over publicly practiced acts and observances. However, this generalization requires serious rethinking.

Asad is certainly right to highlight the role of states and governance in transforming understandings and practices of religion and ethics in modern times. He is also right to situate citizen- and nation-making at the very heart of this process; this latter point has been confirmed in numerous studies from around the world on religion-making in modern nation-states. However, Asad's weightier claim that modern religion has everywhere been reconfigured as *private and belief-based* rather than public and institutional is empirically misleading, obscuring the diverse array of religion-state-society transformations that have taken place in countries around the modern world, including here in Indonesia and much of the modern the West. Rather than stripping citizenship and national identity of all traces of religious identity, nation-building and citizen making in Indonesia, as in the modern West, often retained religion as an important part of public life and citizenship ideals (see Fox 2012). More specifically, rather than privatizing religion, nation-state and citizen-making more commonly worked to publicize and prioritize institutional religious freedom for certain religious communities while excluding or stigmatizing others. The pattern of "Protestant quasi-establishment" (Kuru 2009) characteristic of American citizenship over most of the nineteenth and early twentieth century is just one striking illustration of this fact (McLeod 2003, pp. 4–5; Stepan 2011).

The fact that institutional religious freedom is so deeply polity-contingent may at first sound like a counsel of pessimism for the proponents of religious freedom. However, it should not be. As is also the case in India, Western Europe, and the United States, and as Ahmet Kuru (2019) has suggested in his recent book on Islam and development, the fact that the achievement of institutional religious freedom is dependent on social coalitions promoting different definitions of religion and different visions of institutional religious freedom in fact suggests that the fate of religious freedom is not determined by unchanging civilizational formula, but by path-dependent political and intellectual processes. For internationalists committed to the promotion of institutional religious freedom, this simple truth suggests three steps to more effectively promote institutional religious freedom.

The first is that we must be deeply aware of the fact that religious and national communities define the category of "religion" in different ways. In a recent and important book on comparative politics and political theology, Robert Joustra has made this same point (Joustra 2017). Although at first sight this definitional fact may create the impression of a hopeless relativism on matters of institutional freedom, in reality it provides a key policy instrument for bridging cultural barriers and drawing policy makers and publics into a deeper dialogue on how to engage religion's realities and promote institutional freedom.

The second step this analysis suggests is that any effort to promote institutional religious freedom in a specific national setting must begin with a careful mapping of the movements and coalitions most capable of consolidating institutional religious freedom in a socially realistic way. Merely broadcasting the ideals of institutional freedom or using them to grade a nation's progress is not in itself enough to spur freedom's progress; in fact, such efforts may backfire. The better tack is to identify coalitions and partners, and build on local religious and national sensibilities rather than ignore them (Kuru 2019).

The third and final step the Indonesian example recommends for progress in institutional religious freedom is the most sobering: it is that institutions so vital for religious communities' flourishing may at some point infringe on the institutional freedoms of other religious communities. Inasmuch as this is the case, the unexpected but essential truth at the heart of the ideal of institutional religious freedom is that, rather than absolutization, its precise policy terms must be continuously recalibrated and refined in respectful dialogue with and recognition of citizens and believers from outside one's own religious community.

Funding: Work on this paper was made possible by a grant from the John Templeton Foundation to the Religious Freedom Institute for a three-year research project on the Freedom of Religious Institutions in Society.

Conflicts of Interest: The author declares no conflict of interest.

References

- Abdillah, Masykuri. 1997. *Responses of Indonesian Muslim Intellectuals to the Concept of Democracy (1966–1993)*. Hamburg: Abera Verlag Meyer & Co.
- Ahmed, Shahab. 2015. *What Is Islam? The Importance of Being Islamic*. Princeton: Princeton University Press.
- Aragon, Lorraine V. 2000. *Fields of the Lord: Animism, Christian Minorities, and State Development in Indonesia*. Honolulu: University of Hawaii Press.
- Aritonang, Jan S., and Karel A. Steenbrink, eds. 2008. *A History of Christianity in Indonesia*. Leiden: Brill.
- Asad, Talal. 1983. Anthropological Conceptions of Religion: Reflections on Geertz. *Journal of the Royal Anthropological Institute* 18: 237–59. [\[CrossRef\]](#)
- Asad, Talal. 2003. *Formations of the Secular: Christianity, Islam, Modernity*. Stanford: Stanford University Press.
- Aspinall, Edward. 2005. *Opposing Suharto: Compromise, Resistance, and Regime Change in Indonesia*. Stanford: Stanford University Press.
- Aspinall, Edward, and Marcus Mietzner. 2010. *Problems of Democratisation in Indonesia: Elections, Institutions and Society*. Singapore: Institute of Southeast Asian Studies.
- Atkinson, Jane Monnig. 1987. Religions in Dialogue: The Construction of an Indonesian Minority Religion. In *Indonesian Religions in Transition*. Edited by Rita Smith Kipp and Susan Rodgers. Tucson: University of Arizona Press, pp. 171–86.
- Avonius, Leena. 2004. *Reforming Wetu Telu: Islam, Adat, and the Promises of Regionalism in Post-New Order Lombok*. Ph.D. dissertation, Department of Anthropology, Leiden University, Leiden, The Netherlands.
- Azra, Azyumardi, Dina Afrianty, and Robert W. Hefner. 2007. Pesantren and Madrasa: Muslim Schools and National Ideals in Indonesia. In *Schooling Islam: The Culture and Politics of Modern Muslim Education*. Edited by Robert W. Hefner and Muhammad Qasim Zaman. Princeton: Princeton University Press, pp. 172–98.
- Bagir, Zainal Abidin. 2013. Defamation of Religion in Post-Reformasi Indonesia: Is Revision Possible? *Australian Journal of Asian Law* 13: 1–16.
- Bagir, Zainal Abidin. 2020. 'Kepercayaan' dan 'Agama' Dalam Negara Pasca-Reformasi. *Prisma* 39: 41–52.
- Bahri, Media Zainul. 2017. Indonesian Theosophical Society (1900) and the Idea of Religious Pluralism. *Southeast Asian Studies* 6: 139–65.
- Bakker, F. L. 1993. *The Struggle of the Hindu Balinese Intellectuals*. Amsterdam: Vrij University Press.
- Bamualim, Chaider S. 2015. *Negotiating Islamisation and Resistance: A Study of Religions, Politics and Social Change in West Java from the Early 20th Century to the Present*. Ph.D. thesis, Department of History, University of Leiden, Leiden, The Netherlands.
- Bayat, Asef. 2017. *Revolution without Revolutionaries: Making Sense of the Arab Spring*. Stanford: Stanford University Press.
- Beaman, Jean. 2016. Citizenship as Cultural: Towards a Theory of Cultural Citizenship. *Sociology Compass* 10: 845–57. [\[CrossRef\]](#)
- Berkey, Jonathan P. 1992. *The Transmission of Knowledge in Medieval Cairo: A Social History of Islamic Education*. Princeton: Princeton University Press.
- Boland, B. J. 1971. *The Struggle of Islam in Modern Indonesia*. Leiden: Koninklijk Instituut voor Taal-Land en Volkenkunde.
- Bowen, John R. 2005. Normative Pluralism in Indonesia: Regions, Religions, and Ethnicities. In *Multiculturalism in Asia*. Edited by Will Kymlicka and B. He. Oxford: Oxford University Press, pp. 152–69.
- Brown, Nathan J. 2013. Egypt's Failed Transition. *Journal of Democracy* 24: 45–59. [\[CrossRef\]](#)
- Buehler, Michael. 2016. *The Politics of Shari'a Law: Islamist Activists and the State in Democratizing Indonesia*. Cambridge: Cambridge University Press.
- Butt, Simon. 2016. *Between Control and Appeasement: Religion in Five Constitutional Court Decisions*. Edited by Tim Lindsey and Helen Pausacker. London and New York: Routledge, pp. 42–67.
- Cederroth, Sven. 1996. From Ancestor Worship to Monotheism: Politics of Religion in Lombok. *Temenos* 32: 7–36. [\[CrossRef\]](#)
- Cesari, Jocelyne. 2018. *What Is Political Islam?* Boulder: Lynne Rienner Publishers.
- Cribb, Robert. 1990. *The Indonesia Killings, 1965–1966: Studies from Java and Bali*. Clayton: Centre of Southeast Asian Studies, Monash University.
- Crouch, Melissa. 2014. *Law and Religion in Indonesia: Conflict and the Courts in West Java*. London and New York: Routledge.

- Daniels, Timothy. 2009. *Islamic Spectrum in Java*. Burlington: Ashgate.
- Dhofier, Zamakhsyari. 1999. *The Pesantren Tradition: The Role of the Kyai in the Maintenance of Traditional Islam in Java*. Tempe: Program for Southeast Asian Studies, Arizona State University.
- Doumato, Eleanor Abdella, and Gregory Starett, eds. 2007. *Teaching Islam: Textbooks and Religion in the Middle East*. Boulder: Lynne Reiner.
- Eaton, Richard M. 1993. *The Rise of Islam and the Bengal Frontier, 1204–1760*. Berkeley and Los Angeles: University of California Press.
- Effendy, Bahtiar. 2003. *Islam and the State in Indonesia*. Singapore: Institute of Southeast Asian Studies.
- Elson, Robert E. 2013. Two Failed Attempts to Islamize the Indonesian Constitution. *Sojourn: Journal of Social Issues in Southeast Asia* 28: 379–437. [CrossRef]
- Fealy, Greg. 2003. *Ijtihad Politik Ulama: Sejarah NU 1952–1967*. Yogyakarta: LKIS.
- Fealy, Greg. 2016. The Politics of Religious Intolerance in Indonesia: Mainstream-ism Trumps Extremism? In *Religion, Law, and Intolerance in Indonesia*. Edited by Tim Lindsey and Helen Pausacker. London and New York: Routledge, pp. 115–31.
- Fealy, Greg, and K. McGregor. 2010. Nahdlatul Ulama and the Killings of 1965–1966: Religion, Politics, and Remembrance. *Indonesia* 89: 37–60.
- Feener, R. Michael. 2007. *Muslim Legal Thought in Modern Indonesia*. Cambridge: Cambridge University Press.
- Feillard, Andr e, and R my Madinier. 2006. *La Fin de l'Innocence? L'Islam Indon sien Face   la Tentation Radicale de 1967   Nos Jours*. Paris: Les Indes Savantes.
- Feith, Herbert. 2006. *The Decline of Constitutional Democracy in Indonesia*. Singapore: Equinox Publishing. First published 1962.
- Fenwick, Stewart. 2017. *Blasphemy, Islam and the State: Pluralism and Liberalism in Indonesia*. London and New York: Routledge.
- Fox, Jonathan. 2006. World Separation of Religion and State into the 21st Century. *Comparative Political Studies* 39: 536–69. [CrossRef]
- Fox, Jonathan. 2012. Separation of Religion and State in Stable Christian Democracies: Fact or Myth? *Journal of Law, Religion and State* 1: 60–94. [CrossRef]
- Geertz, Clifford. 1960. *The Religion of Java*. New York: The Free Press.
- George, Kenneth M. 1996. *Showing Signs of Violence: The Cultural Politics of a Twentieth-Century Headhunting Ritual*. Berkeley: University of California Press.
- Hadiz, Vedi. 2016. *Islamic Populism in Indonesia and the Middle East*. Cambridge: Cambridge University Press.
- Hefner, Robert W. 1985. *Hindu Javanese: Tengger Tradition and Islam*. Princeton: Princeton University Press.
- Hefner, Robert W. 1990. *The Political Economy of Mountain Java: An Interpretive History*. Berkeley and Los Angeles: University of California Press.
- Hefner, Robert W. 2000. *Civil Islam: Muslims and Democratization in Indonesia*. Princeton: Princeton University Press.
- Hefner, Robert W. 2004. Hindu Reform in an Islamizing Java: Pluralism and Peril. In *Hinduism in Modern Indonesia: A Minority Religion between Local, National, and Global Interests*. Edited by Martiin Ramstedt. London and New York: RoutledgeCurzon, pp. 93–108.
- Hefner, Robert W. 2009. Islamic Schools, Social Movements, and Democracy in Indonesia. In *Making Modern Muslims: The Politics of Islamic Education in Southeast Asia*. Edited by Robert W. Hefner. Honolulu: University of Hawaii Press, pp. 55–105.
- Hefner, Robert W. 2011. Where Have All the Abangan Gone? Religionization and the Decline of Non-Standard Islam in Contemporary Indonesia. In *The Politics of Religion in Indonesia: Syncretism, Orthodoxy, and Religious Contention in Java and Bali*. Edited by Michel Picard and R my Madinier. London and New York: Routledge, pp. 71–91.
- Herrera, Linda, and Carlos Alberto Torres. 2006. *Cultures of Arab Schooling: Critical Ethnographies from Egypt*. Binghamton: SUNY Press.
- Hidayah, Sita. 2012. The Politics of Religion: The Invention of 'Agama' in Indonesia. *Kawistara* 2: 105–39.
- Hosen, Nadirsyah. 2007. *Shari'a and Constitutional Reform in Indonesia*. Singapore: ISEAS Press.
- Hoskins, Janet. 1987. Entering the Bitter House: Spirit Worship and Conversion in West Sumba. In *Indonesian Religions in Transition*. Edited by Rita Smith Kipp and Susan Rodgers. Tucson: University of Arizona Press, pp. 136–60.
- Human Rights Watch. 2013. *In Religion's Name: Abuses Against Religious Minorities in Indonesia*. New York: HRW.
- Jabali, Fuad, and Jamhari. 2002. *IAIN & Modernisasi Islam di Indonesia [The State Islamic Institutes and the Modernization of Islam in Indonesia]*. Jakarta: Logos Wacana Ilmu.
- Jackson, Elizabeth. 2007. Crafting a New Democracy: Civic Education in Indonesian Islamic Universities. *Asia Pacific Journal of Education* 27: 41–54. [CrossRef]
- Jay, Robert R. 1969. *Javanese Villagers: Social Relations in Rural Modjokuto*. Cambridge: MIT Press.
- Joustra, Robert J. 2017. *The Religious Problem with Religious Freedom: Why Foreign Policy Needs Political Theology*. New York: Routledge.
- Kehl-Bodrogi, Krisztina, Barbara Kellner-Heikele, and Anke Otter-Beaujean, eds. 1997. *Syncretistic Religious Communities in the Near East*. Leiden: Brill.
- Kendhammer, Brandon. 2017. *Muslims Talking Politics: Framing Islam, Democracy, and Law in Northern Nigeria*. Chicago: University of Chicago Press.
- Kersten, Carool. 2015. *Islam in Indonesia: The Contest for Society, Ideas and Values*. London: Hurst and Company.
- Kingsley, Jeremy. 2010. *Tuan Guru, Community and Conflict in Lombok Indonesia*. Ph.D. thesis, Melbourne Law School, University of Melbourne, Melbourne, Australia.
- Kraince, Richard G. 2007. Islamic higher education and social cohesion in Indonesia. *Prospects* 37: 345–56. [CrossRef]
- Kruithof, Maryse. 2014. 'Shouting in a Desert': Dutch Missionary Encounters with Javanese Islam, 1850–1910. Ph.D. thesis, Department of History, Erasmus University, Rotterdam, The Netherlands.

- Kuipers, Joel C. 1998. *Language, Identity, and Marginality in Indonesia: The Changing Nature of Ritual Speech on the Island of Sumba*. Cambridge: Cambridge University Press.
- Kuru, Ahmet T. 2009. *Secularism and State Policies toward Religion: The United States, France, and Turkey*. Cambridge: Cambridge University Press.
- Kuru, Ahmet T. 2019. *Islam, Authoritarianism, and Underdevelopment: A Global and Historical Comparison*. Cambridge: Cambridge University Press.
- Laffan, Michael. 2011. *The Makings of Indonesian Islam: Orientalism and the Narration of a Sufi Past*. Princeton: Princeton University Press.
- Lev, Daniel S. 1966. *The Transition to Guided Democracy: Indonesian Politics, 1957–1959*. Ithaca: Modern Indonesia Project, Southeast Asia Program, Department of Asian Studies, Cornell University.
- Lindsey, Tim, and Simon Butt. 2016. State Power to Restrict Religious Freedom: An Overview of the Legal Framework. In *Religion, Law and Intolerance in Indonesia*. Edited by Tim Lindsey and Helen Pausacker. London and New York: Routledge, pp. 19–41.
- Lindsey, Tim, and Helen Pausacker, eds. 2016. *Religion, Law and Intolerance in Indonesia*. New York and London: Routledge.
- Lombard, Denys. 1990. *Le Carrefour Javanais: Essai d'histoire globale, Vol. 2. Les Réseaux Asiatique*. Paris: Editions de l'École des Hautes Études en Sciences Sociales.
- Maarif, Samsul, Husni Mubarak, Laela Fitriani Saharoni, and Dyah Roessusita. 2019. *Merangkul Penghayat Kepercayaan Melalui Advokasi Inklusi Sosial: Belajar Dari Pengalaman Pendampingan*. Edisi II, Laporan Kehidupan Beragama di Indonesia. Yogyakarta: CRCS.
- MacDougall, John M. 2005. *Buddhist Buda or Buda Buddhists? Conversion, Religious Modernism and Conflict in the minority Buda Sasak Communities of New Order and Post-Suharto Lombok*. Ph.D. thesis, Department of Anthropology, Princeton University, Princeton, NJ, USA.
- Mahmood, Saba. 2015. *Religious Difference in a Secular Age: A Minority Report*. Princeton: Princeton University Press.
- Makdisi, George. 1981. *The Rise of Colleges: Institutions of Learning in Islam and the West*. Edinburgh: University of Edinburgh Press.
- Makin, Ali. 2016. *Challenging Islamic Orthodoxy: Accounts of Lia Eden and Other Prophets in Indonesia*. Bern: Springer.
- McLeod, Hugh. 2003. Introduction. In *The Decline of Christendom in Western Europe, 1750–2000*. Edited by Hugh McLeod and Werner Ustorf. Cambridge: Cambridge University Press, pp. 1–26.
- Mietzner, Marcus. 2009. *Military Politics, Islam, and the State in Indonesia: From Turbulent Transition to Democratic Consolidation*. Singapore: Institute of Southeast Asian Studies.
- Mulder, Niels. 1978. *Mysticism and Everyday Life in Contemporary Java: Cultural Persistence and Change*. Athens: Ohio University Press.
- Mutaqin, Zezen Zaenal. 2014. Penghayat, Orthodoxy and the Legal Politics of the State: The Survival of Agama Jawa Sunda (Madraism) in Indonesia. *Indonesia and the Malay World* 42: 1–23. [\[CrossRef\]](#)
- Nagazumi, Akira. 1972. *The Dawn of Indonesian Nationalism: The Early Years of the Budi Utomo, 1908–1918*. Tokyo: Institute of Developing Economies.
- O'Donnell, Guillermo, and Philippe C. Schmitter. 1986. *Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies*. Baltimore: Johns Hopkins University Press.
- Peletz, Michael G. 2020. *Sharia Transformations: Cultural Politics and the Rebranding of an Islamic Judiciary*. Oakland: University of California Press.
- Pepinsky, Thomas B., R. William Liddle, and Saiful Mujani. 2018. *Piety and Public Opinion: Understanding Indonesian Islam*. New York: Oxford University Press.
- Philpott, Daniel. 2019. *Religious Freedom in Islam: The Fate of a Universal Human Right in the Muslim World*. Oxford: Oxford University Press.
- Picard, Michel. 2011. From Agama Hindu Bali to Agama Hindu and Back: Toward a Relocalization of Balinese Religion? In *The Politics of Religion in Indonesia: Syncretism, Orthodoxy, and Religious Contention in Java and Bali*. Edited by Michel Picard and Rémy Madinier. London and New York: Routledge, pp. 117–41.
- Ramstedt, Martin, ed. 2004. *Hinduism in Modern Indonesia*. London and New York: Routledge.
- Reid, Anthony. 1993. *Southeast Asia in the Age of Commerce, 1450–1680: Volume Two: Expansion and Crisis*. New Haven: Yale University Press.
- Ricklefs, Merle. C. 2006. *Mystic Synthesis in Java: A History of Islamization from the Fourteenth to the Early Nineteenth Centuries*. Norwalk: East Bridge.
- Ricklefs, Merle C. 2012. *Islamisation and Its Opponents in Java: c. 1930 to the Present*. Singapore: NUS Press.
- Rinaldo, Rachel. 2013. *Mobilizing piety: Islam and Feminism in Indonesia*. New York: Oxford University Press.
- Robinson, Kathryn. 2009. *Gender, Islam and Democracy in Indonesia*. London and New York: Routledge.
- Roosa, John. 2006. *Pretext for Mass Murder: The September 30th Movement and Suharto's Coup d'état in Indonesia*. Madison: University of Wisconsin Press.
- Ropi, Ismatu. 2012. *The Politics of Regulating Religion: State, Civil Society and the Quest for Religious Freedom in Modern Indonesia*. Ph.D. dissertation, Australian National University, Canberra, Australia.
- Roy, Asim. 1983. *The Islamic Syncretistic Tradition in Bengal*. Princeton: Princeton University Press.
- Sakai, Minako. 1999. *The Nut Cannot Forget Its Shell: Origin Rituals among the Gumai of South Sumatra*. Ph.D. thesis, Department of Anthropology, Australian National University, Canberra, Australia.
- Salim, Arskal. 2008. *Challenging the Secular State: The Islamization of Law in Modern Indonesia*. Honolulu: University of Hawaii Press.

- Shah, Timothy S., and Jack Friedman, eds. 2018. *Homo Religiosus? Exploring the Roots of Religion and Religious Freedom in Human Experience*. Cambridge: Cambridge University Press.
- Shakman Hurd, Elizabeth. 2015. *Beyond Religious Freedom: The New Global Politics of Religion*. Princeton and Oxford: Princeton University Press.
- Smith, Christian. 2019. *Religion: What It Is, How It Works, and Why It Matters*. Princeton: Princeton University Press.
- Smith-Hefner, Nancy J. 2019. *Islamizing Intimacy: Gender, Sexuality, and Youth in Contemporary Indonesia*. Honolulu: University of Hawaii Press.
- Stange, Paul. 1986. 'Legitimate' Mysticism in Indonesia. *Review of Indonesian and Malaysian Affairs* 20: 76–117.
- Steedly, Mary Margaret. 1993. *Hanging Without a Rope: Narrative Experience in Colonial and Postcolonial Karoland*. Princeton: Princeton University Press.
- Stepan, Alfred. 2011. The Multiple Secularisms of Modern Democratic and Non-Democratic Regimes. In *Rethinking Secularism*. Edited by Craig Calhoun, Mark Juergensmeyer and Jonathan VanAntwerpen. Oxford: Oxford University Press, pp. 114–44.
- Stepan, Alfred. 2014. Muslims and Toleration: Unexamined Contributions to the Multiple Secularisms of Modern Democracies. In *Boundaries of Toleration*. Edited by Alfred Stepan and Charles Taylor. New York: Columbia University Press, pp. 267–96.
- Telle, Kari. 2013. Vigilante Citizenship: Sovereign Practices and the Politics of Insult in Indonesia. *Bijdragen tot de Taal-, Land- en Volkenkunde* 169: 183–212. [[CrossRef](#)]
- Tsing, Anna Lowenhaupt. 1993. *In the Realm of the Diamond Queen: Marginality in an Out-of-the-Way Place*. Princeton: Princeton University Press.
- van Akkeren, Philip. 1970. *Sri and Christ: A Study of the Indigenous Church in East Java*. London: Lutterworth Press.
- van Bruinessen, Martin. 1999. Global and Local in Indonesian Islam. *Southeast Asian Studies* 37: 46–63.
- Volpi, Frédéric. 2013. Explaining (and re-explaining) political change in the Middle East during the Arab Spring: trajectories of democratization and of authoritarianism in the Maghreb. *Democratization* 20: 969–90. [[CrossRef](#)]
- Volpi, Frédéric, and Ewan Stein. 2015. Islamism and the State after the Arab Uprisings: Between People Power and State Power. *Democratization* 22: 276–93. [[CrossRef](#)]
- Warburton, Eve, and Edward Aspinall. 2019. Explaining Indonesia's Democratic Regression: Structure, Agency, and Popular Opinion. *Contemporary Southeast Asia* 41: 255–85. [[CrossRef](#)]
- Wessing, Robert. 2017. When the Tutelary Spirit Objected: Conflict and Possession among the Using of East Java, Indonesia. *Anthropological Forum* 26: 355–75. [[CrossRef](#)]
- Wilson, Ian Douglas. 2006. Continuity and Change: The Changing Contours of Organized Violence in Post-New Order Indonesia. *Critical Asian Studies* 38: 265–97. [[CrossRef](#)]
- Wilson, Ian Douglas. 2008. 'As Long as It's Halal': Islamic Preman in Jakarta. In *Expressing Islam: Religious Life and Politics in Indonesia*. Edited by Greg Fealy and Sally White. Singapore: Institute for Southeast Asian Studies, pp. 192–210.
- Woodward, Mark. 1989. *Islam in Java: Normative Piety and Mysticism in the Sultanate of Yogyakarta*. Association for Asian Studies Monography 45. Tucson: University of Arizona Press.
- Zeghal, Malika. 2016. Constitutionalizing a Democratic Muslim State without Shari'a. In *Shari'a Law and Modern Muslim Ethics*. Edited by Robert W. Hefner. Bloomington and Indianapolis: Indiana University Press, pp. 107–34.
- Zubaida, Sami. 2003. *Law and Power in the Muslim World*. London: I.B. Tauris.

Article

Who Speaks for Coptic Rights in Egypt Today? (2013–2021)

Mariz Tadros ^{1,*} and Akram Habib ²¹ Institute of Development Studies, University of Sussex, Brighton BN1 9RE, UK² Independent Researcher, Brighton BN1 5PL, UK; arhabib@hotmail.com

* Correspondence: m.tadros@ids.ac.uk

Abstract: This paper explores the nature of Coptic struggles for religious equality in Egypt in the period between 2013 and 2021. The key research question informing this paper is: in a context where the space for civic action to demand rights for equality and religious freedom is deeply circumscribed, who fills the vacuum of mediating Coptic grievances and what are the implications for institutionalizing religious freedom and promoting the greater public good? The methodology informing this paper is a multi-scalar linking national level political analysis of the relationship between the President and the Patriarch with the relationship between the church leadership and authorities in the governorate of Minya and its implications for local level governance of sectarian violence against Copts. The paper makes three key propositions. First, the relationship between the President and the Pope cannot be assumed to be a proxy for state-church relations more widely because the positively demonstrated political will of the President has not led to the institutionalization of religious equality at different levels of governance. Second, the assumption of Bishop Makarios of a representational role in defending and promoting the rights of Copts has led to a trade off in institutional rights encroaching on the principle of ecclesiastical affairs being free from governmental meddling. The third proposition is that the political vacuum created by the elimination of mediation of rights via civil society actors has not only negatively affected opportunities for championing the institutionalization of rights at different levels but has also wielded a loss for the promotion of public good more broadly.

Keywords: Copts; equal citizenship; religious freedom; Coptic movements; Egypt

Citation: Tadros, Mariz, and Akram Habib. 2022. Who Speaks for Coptic Rights in Egypt Today? (2013–2021). *Religions* 13: 183. <https://doi.org/10.3390/rel13020183>

Academic Editors: Timothy Shah and Nathan A. Berkeley

Received: 27 August 2021

Accepted: 24 November 2021

Published: 18 February 2022

Publisher's Note: MDPI stays neutral with regard to jurisdictional claims in published maps and institutional affiliations.



Copyright: © 2022 by the authors. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

The situation with respect to religious equality in Egypt today is a deeply contested one, depending on whose interpretive lens informs the analysis and the time frame that is under study. The key research question informing this paper is: In a context where the space for civic action to demand rights for equality and religious freedom are circumscribed, who fills the vacuum of mediating and representing Coptic grievances in contemporary Egypt since 2013?

In order to address this question, a case study is presented of the responses to the occurrence of sectarian assaults against Copts in the governorate with the highest levels of assaults on Copts, Minya. The responses of the Pope to the occurrence of sectarianism broadly is contrasted with that of Bishop Macarios, the then acting Metropolitan Bishop for Minya in the period from 2013–2020. Bishop Macarios' tactics diverged from those of the Coptic Orthodox Church leadership when engaging with the authorities in Egypt and represents an anomaly in its defiant character. However, although an anomaly, the case study was chosen on account of its illumination of the chasm between a positive rhetoric on the part of the President towards the Copts at a national level and the systemic forms of discrimination that infiltrate local level governance in handling sectarian violence. It is also highly revelatory in showing the predicament that affects dissenting ecclesiastical voices that openly challenge the authorities both for themselves and for the church as an institution. It also points to the dire consequences of circumscribing the space for Coptic civil society in speaking on behalf of Coptic citizens.

The first part of the paper briefly describes the conceptual framework informing the study as well as the methodology, the second part describes the emergence of the

alliance between Pope Tawadrous and President Al-Sissi in 2013 and its consolidation over the years that followed and the contextual dynamics informing the mediation of institutional freedom of religion. The third part describes the escalation of tensions between Bishop Macarius and the political and security institutions since he assumed office, their drivers and implications for institutionalizing religious equality. The final part offers an analysis of trade-offs of different pathways of institutionalizing religious freedom and their implications for a number of factors associated with the public good.

1. Conceptual Framing and Methodological Approach

The question of how institutional religious freedom contributes to the greater public good in contemporary Egypt necessitates some level of unpacking of the concepts of institutional, religious freedom and public good. The concept of institutions can be defined in many different ways, our framing draws on Douglass North's framing as

“the rules of the game in a society; more formally they are the humanly devised constraints that shape human interactions. They structure incentives in exchange, whether political, social or economic. Institutional change shapes the way societies evolve through time, and hence, is the key to understanding historical change”. (North 1992, p. 477)

While North, a co-recipient of the 1993 Nobel Memorial Prize in Economic Sciences, has been most renowned in the realm of new economic institutionalism, his work has also shaped understandings of political dynamics in particular with respect to understanding “how norms, beliefs, and violence sustain the privileges, advantages—and power—of some groups over others” (Levi and Weingast 2019, p. 216).

Douglass' conception of institutions informs our analysis of how the rules of the game operate with respect to institutions in Egypt such as the church, the security apparatus and Coptic associational life. Conceptualizing the institutional in terms of the rules of the game enables a nuanced understanding of the dynamics of religious freedom in practice in two fundamental ways. First, it enables us to consider the influence not only of the formal rules inscribed in laws, policies and decrees but also informal rules in the form of informal settlements, inherent norms and behind the scenes mediations. This is critically important in the context of Egypt since, aside from the political will of the President, it is the security apparatuses that are the key players governing relations between state and church, and society on the Coptic question (see Guirguis 2016; Elsässer 2014; Tadros 2013a, Brownlee 2018 for details). The security apparatuses operate in an opaque manner, often mediating institutional relations through informal mechanisms of power. Moreover, the concept of a game allows for an exploration of power relations in a non-static, dynamic manner. In the context of Egypt, it would be far more theoretically and analytically useful to consider trade-offs between different rights and freedoms in a dynamic manner rather than a set of coherent rights that neatly feature in a holistic checklist. It would be far more analytically useful to understand trade-offs between different sites and spheres of power than to think in terms of coherence across actors and policies, given the messy and contradictory nature of power configurations on the ground.

In terms of the concept of freedom, we borrow from development scholarship once more, drawing on Amartya Sen's framing of freedom in terms of positive and negative capabilities (Sen 2001). Positive freedom is what people are enabled to do or have the capacity to do. For example, in this paper, we explore the ability to enjoy freedom of worship, freedom of speech, freedom of gathering etc. However, Amartya Sen also speaks of freedom from negative forces, i.e., freedom from all kinds of repressions. For example, in the context of Egypt, for Copts, the freedom from experiencing terrorist attacks and militia attacks, freedom from exposure to unfair trials, etc. These two sets of freedoms are not mutually exclusive, for example, we need freedom of speech to press for accountability and freedom from hate speech that incites to violence. Here, the operationalization of institutional freedom for religious organizations as conceived by Shah (this volume) is

especially helpful. Shah conceives of institutional freedom of religious organizations in terms of

the effective power of religious communities and organizations to be independent of control or interference by the state and other social actors and therefore to enjoy meaningful self-determination in the conduct of their “internal” affairs or self-governance as well as their “external” affairs or engagement with the wider society. To elaborate, institutional religious freedom is the presumptive right of a religious institution to be free from coercive interference on the part of individuals, social groups, governments, or of any human power in three main areas or dimensions: self-definition, self-governance, and self-directed outward expression and action. (Shah 2021, p. 4)

Durham’s (2001) postulation of three dimensions for institutional freedom of organizations: the horizontal, vertical and substantive is particularly relevant here. The rules of the game informing the mediation of rights for Copts in contemporary Egypt have affected the vertical dimensions of institutional freedom of organizations, namely those that

“pertain to a community’s leadership structure, hierarchy, lines of authority, the training and appointment of ministers and leaders, the conferral of membership, and the disciplining of members”. (Shah 2021, p. 4)

The paper extends the question of how rules of the game shaping the position of the Copts and the position of the church influence the public good. Public good in this instance is operationalized as per RFI’s conception to comprise “a stable social order, a dynamic economy, a free and democratic political order, a robust civil society, and clean and transparent governance”¹. In this paper, we argue that the circumscribing role of both state and church in relation to Copts involvement in entitlements-claiming via civil society has negatively affected the public good.

There are several methodological constraints hindering the examination of how the rules of the game within and between institutions in Egypt shape religious freedom for the Copts². First, the practices of institutions such as the church and security apparatus are extremely opaque and therefore difficult to study. They are dynamic in how they operate at different levels, spaces and times. Second, undertaking empirical research in Egypt post-2013 is dangerous. The government discourages social science research generally (Sholkamy 2015). Third, press freedom is deeply constrained in contemporary Egypt, and there is substantial government-enforced as well as self-imposed censorship by the press. This limits the press coverage available on the state of religious freedoms in Egypt as well as other freedoms more broadly. Fourth, the political polarization between those that conceive of the ousting of Morsi as a coup and those that describe it as a revolution has coloured all analysis of contemporary Egyptian affairs in Western scholarship in a manner that renders the work deeply biased. The challenge is not so much the presence of diverging perspectives but scholars’ lack of disclosure of how their personal standpoint on regime change influences their interpretation of events. For example, if scholars favoured the Muslim Brotherhood’s rule, they are very likely to see anything that the current regime undertakes as damaging and oppressive. These factors greatly circumscribed the conditions under which this inquiry was undertaken.

Primary data were collected between 2019-end of February 2021 through interviews, participant observation in non-profit civic associational work in Egypt and reliance on key informants. On account of duty of care towards sources, all names have been anonymized. This may perhaps represent one of the limitations of this study, namely that there are very few references where the sources are cited. Secondary data sources in English and Arabic also informed this study and included scholarly articles and press reports. Caution was needed in analyzing secondary data sources, on account of their limited reliance on empirical data and lack of disclosure of standpoint.

The methodological approach pursued was multi-scalar: gravitating between the national level (Patriarch-President), the meso-level (Bishop-governorate level security

apparatus), and local level where sectarian violence occurs in villages and parts of towns. The choice of such a multi scalar methodology was informed by a number of considerations. First, in order to test one of the main propositions of this paper that the Pope-President alliance is not necessarily a proxy for state-church relations more broadly, it was necessary to explore relationships influencing institutional religious freedom beyond the persons of the Pope and President. In his engagement with local and security authorities at the diocese of Minya, Bishop Macarios diverged greatly in his engagement with the state authorities from the kind of rapport shown between Pope and President. Moreover, the study of institutional religious freedom required probing beyond national level discourses and practices because most of the violations of Copts' rights to religious equality happened at a local level, often in rural communities (though there have also been urban incidents in particular those involving terrorist acts). In this inquiry, a sub-governorate level was chosen for inquiry. The governorate of Minya has historically and in contemporary times experienced the worst incidents of sectarian attacks on Copts (Tadros 2013a). It also has the second largest concentration of Christians in Upper Egypt (Assuit having the highest). The concentration of Christians in Minya is so substantial that the Coptic Orthodox Church divided the governorate into seven dioceses, the most important and largest of which is the centre and its surrounding villages which is the focus of our study here. Minya governorate experienced several terrorist assaults as well as sectarian violence against Copts. By examining the institutional management of these attacks, it was possible to also draw conclusions on what enables or hinders religious freedom in that context. The time period covered in this study extended from July 2013 to end of February 2021. The rationale for choosing this timeline are associated with the emergence of a new political leadership in Egypt following the demise of the Muslim Brotherhood-led regime via the ousting of President Morsi in 2013, one which has remained in power to this day.

The Alliance between President and Pope

Egypt has one of the most ancient Christian populations in the Middle East, dating back to the fourth century (Atiya 1968, 1979). Today it is estimated that about 10 percent of the Egyptian population are Christian, of whom 90 percent follow the Coptic Orthodox faith and the remaining 10 percent follow the Protestant and Catholic faiths. After being ruled by a single authoritarian ruler, Hosni Mubarak, for almost thirty years (1981–2011), Egyptians rose in revolt, leading to his ouster 18 days later. The transition that followed was fraught with difficulties. The military ruled under the Supreme Council of Armed Forces from the time of the ouster in February 2011 up to June 2012, at which point the Muslim Brotherhood candidate, Mohamed Morsi, won the presidential election. President Morsi ruled from July 2012 up to June 2013 when millions took to the streets to demand his removal and early presidential elections. After the military intervened, Al-Sissi, who was then the Minister of Defense announced a new roadmap on the 3 July 2013. The head of the Supreme Constitutional Court Adley Mansour was appointed as interim president until a new constitution and new elections are held. New presidential elections were held in May 2014, leading to the election of Abdel Fattah Al-Sissi as president, a position he has maintained since then.

The analysis of the situation of present-day Copts can lead to a number of contrasting conclusions. On the one hand, several international reports (such as Farouk et al. 2018) paint a picture of regression of the rights of Copts in comparison to under Mubarak's rule. In some narratives, such regression is suggested as a state-inspired infringement on the protection of Copts from attacks, in other narratives, such violations are presented as a microcosm of the overall encroachment on human rights more broadly in Egypt. On the other hand, there are narratives that see the situation of the Copts as enjoying more citizenship rights under Al-Sissi more than at any other time in history. In such narratives, the Copts are presented as being given a second chance to enjoy citizenship after having participated in the uprising of 2013 that brought the Muslim Brotherhood out of office (for example Pope Tawadrous, see below).

Whatever be the interpretive lens informing the analysis, the definitive facts are that Copts participated in large numbers in the popular uprising in 2013 that called for the ousting of President Morsi, the Muslim Brotherhood leader (Tadros 2013b). Repression had increased under the rule of President Morsi in a manner that cannot be captured merely by counting sectarian-related rates of deaths or injuries. Open vilification of Christian students in public education institutions increased, including, at times, their segregation from Muslims. The kidnapping Christians for ransom rose alongside anti-Christian rhetoric in the media became more pervasive from 2011–2013. Most alarmingly, data from Egyptian press reports showed that the number of sectarian attacks rose from 45 in 2010 to 70 in 2011, the year of the revolution that toppled Hosni Mubarak. In 2012, that number was up to 112. With the rise in sectarian violence in everyday life as well as in major incidents involving bloodshed, Copts joined in large numbers Tamarod, an anti-Morsi grassroots movement (Shafiq 2014, p. 97), while also playing very active roles in the Coptic social movements that emerged after the Egyptian revolution of 2011.

The ousting of President Morsi from office saw the beginning of a new wave of intense violence against Copts and the police and armed forces as part of the Islamists' vendetta against the ousting of President Morsi (Tadros 2013b). The Copts supported the new status quo and as a consequence were targeted as Christians by the pro-Morsi factions who claimed that the Copts were behind the revolt and are to be considered enemies of Islam. On 14 August 2013, the pro-Morsi protests at Rab'a and Al Nahda Squares in Cairo were cleared using excessive force by government security personnel, leading to the death of many protestors as well as several police officers. On the same day, pro-Morsi factions, attacked 64 places of worship, faith-based organizations, and private property were assaulted within 12 h in Minya alone. Coptic civil society, in particular the Maspero Youth movement, played a central role in documenting the scale of devastation, including looting, torching, and injury to individuals. The Copts expected that given the heavy price they paid for revolting against the Brothers, there would be a political will to institutionalize new governance policies that end sectarian violence and discriminatory practices. They soon realized that systemic discrimination in state and non-state practices are difficult to uproot.

Pope Tawadrous participated in the pre-ousting negotiations convened by the then Defence Minister Abdel Fattah Al-Sissi and which ended on 3 July 2013 with the announcement of a new roadmap for the country. Historically, the Patriarch/Pope assumed political representation for the Coptic community although towards the end of President Mubarak's rule and throughout the revolutionary phase of 2011–2013, political representation has become more multi-vocal (Sedra 2014; Ibrahim 2010; Du Roy 2016; Tadros 2009). However, across history and in contemporary Egypt, political representation of the Copts in Egypt at the level of the Patriarch is distinct from rights-claims-making (Farha and Mousa 2015). The question informing this paper is not who politically represents Copts, but who is engaging in public claims-making vis-à-vis rights, in particular when encroachments or violations occur.

After the formal ousting of the then President Morsi in 2013, the announcement of a new roadmap was made public by Al-Sissi in the presence of a number of high-level figures from the political opposition, the judiciary, the defence, and the Grand Sheikh of Al-Azhar and of course Pope Tawadrous. During the event, Pope Tawadrous very passionately spoke in favour of the new roadmap adding: "we are at a crossroads in the history of our beloved Egypt and the map for the way and the future occurred through the consensus of all present, and we put in it all the elements faithfully that ensures the welfare of the road for all Egyptians, through honourable people with no exception, we convened under the flag of Egypt and with it the eagle that we see represents its army which is the beacon of safety" (Badrawy 2016). In the context of a gathering of political and religious figures of the highest level, the non-participation of Pope Tawadrous in the pronouncement of Egypt's new roadmap on the 3 of July 2013 would have been an anomaly—an indication of either the exclusion of the Coptic Church from the new political settlement or its non-involvement.

Either way would have been negative for the Coptic Church and for an inclusive political settlement as a public good.

However, the strong endorsement of Pope Tawadrous of President Al-Sissi in the years that followed is in stark contrast with his rapport with the former president, Mohamed Morsi. Pope Tawadrous stance towards the former President Morsi was openly critical, with an intensity in tone and content that was exceptional for a pope to show a president. Following the assault on the Papal Cathedral in Egypt in August 2013, Pope Tawadros publicly accused President Morsi of failing to protect “a national symbol” (BBC 2013). No other Coptic patriarch since at least the beginning of the 20th century dared publicly contradict the authorities in a manner that suggests they are liars. The Muslim Brotherhood issued a statement in English (and no Arabic version) of their versions of events in which they presented the Copts who had convened at the Papal Cathedral as engaging in vandalism by attacking cars belonging to Egyptian citizens living in the premise (Tadros 2013b). Pope Tawadrous spoke in several media outlets, disclaiming the content of the statement and accused the authorities of seeking to deceive foreign governments. He accused the Muslim Brotherhood of wrongfully accusing the mourners who participated in the funeral held at the Cathedral of non-peaceful engagement. Pope Tawadrous said to the press on 26 April 2013 “the official accounts of clashes occurring at [St] Mark’s Cathedral in Cairo are a matter of fabrication” (Odeh 2014, p. 199). For a Coptic Patriarch to openly accuse the regime in power of “fabrication” is no smaller matter especially since this was not leaked as being said in secret, but publicly and openly professed to the press.

Hence, it is difficult to portray the strong endorsement of Pope Tawadrous of President Al-Sissi as a reflection of the expected stance of a Coptic patriarch toward the position of the presidency in general. Pope Tawadrous’ naming and shaming of President Morsi in national and foreign media and complete reversal vis-a-vis President Al-Sissi suggests it is the person, and not the position that has informed his stance. The relationship that developed between Pope Tawadrous and President Al-Sissi also marked a major departure from the turbulent relationship between his predecessor, Pope Shenouda III and the president at the time, Mohamed Mubarak. Despite Pope Shenouda’s repeated endorsement of President Mubarak, the latter only met privately once over thirty years when he summoned him to the presidential palace in January 2011. In contrast, the number of meetings between Pope Tawadrous and President Al-Sissi have been countless. Relations between the Pope and President could be seen as the strongest that have emerged since the relationship between Nasser and Pope Kyrollos in the first part of the 20th century which were by many accounts very strong (Abdel-Fattah 2010, p. 108; Al-Feki 1998, pp. 41–43; Labebe 2012, pp. 51–53; Al-Manawy 2005, p. 60; Ibrahim 2010) (although some would argue that the relationship between present Patriarch and President is even stronger). Certainly, relations between Pope Tawadrous and President Sisi are much stronger than those that existed between Pope Shenouda and President Mubarak. The latter was lukewarm and had times of tension, despite Pope Shenouda strong endorsement of President Mubarak (see Tadros 2009).

On a national level, there have been several positive overtures by President Al-Sissi towards the Patriarch and the Coptic church more broadly. The regular visits by President Al-Sissi to the Cathedral in Abbasiyya to wish Copts a Merry Christmas at each Christmas eve mass is a gesture that no other President has taken in the modern history of Egypt (Safwat 2020). Coptic Solidarity International, a Coptic advocacy organization based in the US has criticized the high-level publicity around President Al-Sissi’s presence in the Coptic cathedral pointing out that President Naguib visited the (old) Cathedral over Christmas in 1953 and 1954 and that President Nasser inaugurated the opening of the cathedral in Abbasiyya in 1968 (Coptic Solidarity International 2021). There are a number of caveats that need to be taken into consideration when comparing President Al-Sissi’s gestures with previous presidents. The first is that the political environment in the 1950s–1960s was dramatically different to that today, insofar as the Islamists did not enjoy the political weight they do today, nor had their fatwas about how haram (religiously unlawful) it is to wish Christians a merry Christmas been in circulation. Second, it is the frequency with

which President Al-Sissi has frequented the cathedral during Christmas mass worship as if establishing a new tradition or norm that distinguishes this gesture from previous presidents which were considered one-off gestures. Third, the significance of President Al-Sissi's gesture assumed particular importance in the early years after the removal of President Morsi from office on account of its striking contrast to how his predecessor engaged with the Patriarch. The political significance of these visits is the recognition of the faith identity of the Copts as citizens. The religious significance is that it shows his defiance of Islamists and Muslim conservatives who consider it anathema in Islam for a Muslim to take part in or show approval of the religious practices of non-Muslims.

Symbolic gestures of recognition co-exist with systemic forms of religious discrimination. As will be seen below, President Al-Sissi's intervened in a number of local level violation of Coptic rights and overturned his own officials' stances. However, how Al-Sissi's manifestation of recognition of Copts translates into the institutionalization of religious freedom and how it can in turn translate into the promotion of public good is more complex because of the lack of opportunities of downward accountability (from the leadership to local governance institutions) and upward accountability (civil society mediating the demands of citizens to power-holders).

Since 2013, well before Al-Sissi was elected president, Pope Tawadrous expression of support for him has been ardent, consistent and unequivocal. At every possible opportunity, Pope Tawadrous has called upon Copts in Egypt and in the Diaspora to endorse President Al-Sissi. For example, as early as 2014, the Pope made no secret of the political orientation he wants Copts to adopt: in the lead up to the presidential elections, Pope Tawadrous said it was a patriotic duty to vote for Al-Sissi as president, well before the latter had formally announced his nomination (Kamel 2019). All of Pope Tawadrous' press statements and television appearances directed towards the Egyptian public have hailed President Al-Sissi's stir as one leading the country to a renaissance (Khalil 2018). Pope Tawadrous made several overseas trips and at every opportunity of engagement with officials, he praised President Al-Sissi's policies towards the Copts. For example when Angela Merkel visited Egypt in 2017 and met with Pope Tawadrous, he said to her that the situation of Christians has improved after 30th June 2013 and that "we live, Christians and Muslims, in harmony, love and joint social relations and we have a common history of understanding and cooperation . . . with its joys and pains of happiness and hardship". He then added that "from time to time, there are some problems because of poverty, ignorance or fanaticism or crowdedness, and the church tries to resolve these issues with the state through the parameters of one Egyptian family" (State Information Service 2017). In another visit to Europe, Pope Tawadrous said that Egypt has never seen a leader like Al-Sissi in its history (Al-Qods Al-Arabi 2019). In 2018, Pope Tawadrous travelled to New York in 2018 with the view to actively galvanize the Copts living in the United States to show their support for him. The Pope had instructed the bishops in the US to go to great lengths to press the parishioners to make public their endorsement of Al-Sissi by gathering in large numbers holding Egyptian flags to welcome him (Al-Jazeera Net 2018). When asked in a press interview whether he does not consider this as a political activity, he replied that it was not politics but patriotism.

When Pope Tawadrous was pressed by Copts in the Diaspora to explain what he makes of the terrorist attacks that have targeted Copts and the grave situation in many of the country's villages, he said "do not listen to all of the news said, in 99% of the news on facebook are lies and fake and the news when it travels across the Atlantic from Egypt changes and arrives to you in a contorted way, saying that [situation in] Egypt is not good" (Tamri 2018).

In fact, Pope Tawadrous's endorsements have often focused on the person of President Al-Sissi. Pope Tawadrous speaks of Al-Sissi not as one with whom there is an entente around common interests but as one with whom there is an alliance on grounds of personal endearment. On several occasions the Pope has described Al-Sissi in public as "the skilful maestro" and proudly spoke of a "chemistry" between them (New Khalij 2019). In a context

in which the Patriarch is head of the church with the largest Christian followers in Egypt, a proclaimed sense of “chemistry” with the President of Egypt exemplifies a case of the personal being political. In other words, a personal connection with the President is a political declaration of a sense of affinity. However, it is important to note that among the ranks of the Copts with whom the author spoke, many interviewees consider Al-Sissi’s positive overtures towards the Coptic church and its leadership to be genuine indications of the recognition of Copts as part and parcel of the nation. Simultaneously, interviewees point to the disconnect between a presidential recognition of their rights and the systemic discrimination that characterises state and non-state institutional practices towards Copts.

The fact that the Pope chooses not to act publicly as the mediator of Coptic grievances with respect to religious inequality or religious freedom infringements has elicited criticism from among the ranks of some Coptic youth in Egypt (who spoke anonymously) and among some Copts living in the Diaspora. The Pope’s public denial of the presence of religious freedom violations and claims that reports of sectarian violence have no basis have enraged some Copts who have regarded him as a stooge to the regime (Tamri 2018). In September 2018, Pope Tawadrous’ mocked Copts in the Diaspora for advocating on behalf of Copts whose rights are being violated in Egypt, making one particular statement that raised their ire: “There are no attacks on the Copts and the news that receives the Copts in the Diaspora happen to get reversed in the Atlantic Ocean” (i.e., changed over from the truth”. He then mockingly said that the news gets “wet” as it crosses the Atlantic Ocean (quotes taken from Tamri 2018). Influential voices in the Coptic Diaspora such as Coptic activist and writer Magdy Khalil criticized the mobilization by Pope Tawadrous and the Coptic Orthodox Church of its followers in the United States to congregate outside the buildings where President Al-Sissi is to visit in the US to express support and endorsement for him (Tamri 2018).

There are tensions in the choice of roles Pope Tawadrous has assumed. If his support for the regime leads to the suppression of Copts who are demanding accountability, then ultimately this will eventually make him highly unpopular among those who believe in the autonomy of the church from the state. On the one hand, one argument is that the church is necessarily a civil society actor and as such is entitled to assume a mediational role in representing the needs of its adherents or members. The counterargument is that even if the Pope chooses not to publicly discuss Coptic grievances, he should leave the mediation and representation of Coptic grievances to civil society where women and men can speak on behalf of members of the communities and engage in claims-making as citizens, not as members of a religious minority. The Pope may maintain his alliance with Al-Sissi as a relationship of endearment between two official leaders while at the same time, refraining from denying the right to other Copts to make claims as citizens and members of civil society. In other words, while maintaining a positive high level political rapport with the president (and with the limitations this entails in publicly criticizing the regime), simultaneously allowing Copts to use civic space to advocate on behalf of their own rights.

Civil society is a most obvious choice as the realm of mediating citizen grievances in relation to the state. Egypt has had a long history of non-profit associational life that extends back to at least the 19th century when the first Coptic non-governmental organizations were formed. The apex of Coptic engagement in civic activism was reached between 2011 and 2013 when Copts participated in revolutionary pro-democracy movements as well as formed their own movements to champion the citizenship rights for Copts such as the Maspero youth movement, the Free Copts, Copts for Egypt and the Coptic union³. The most famous of such movements was the Maspero youth movement which had both lay and clergy leaders amongst its ranks and was able to galvanize thousands of Copts to take part in marches, sit-ins to protest against violations of rights (Du Roy 2016). Other movements were also established with a view of championing rights. These movements played several highly effective roles in relation to pressing for religious equality and religious freedom for all. The first of such roles was in pressing for accountability for violations of rights of Copts when they occurred. For example, the Maspero movement organised its first sit-in

in March 2011 in response to the burning of a church in Atfeeh, Giza and the expulsion of Coptic families. They demanded the opening of the churches that were previously closed by the state security, the issuance of a unified church law, and the holding to account of the perpetrators of violence. A delegation of youth from the Maspero movement were invited to meet with members of the Supreme Council of Armed Forces (SCAF) and the Prime Minister to negotiate. The outcome was that SCAF rebuilt the church and the families who were evicted were returned to their homes.

The second important role assumed by Coptic civil society is to withstand pressure from the church to concede to government attempts at treating them as religious, not civic subjects. In May 2011, there was another incident involving the burning of churches in Imbaba, Cairo and the Maspero youth movement and other Coptic movements that had been established since then went back to the streets to revolt. When the Coptic Church leadership pressed them to stop their demonstrations, they refused until some of their demands were met: a commitment to the rebuilding of the burnt churches and the arrest of some of the known perpetrators.

The third important role assumed by Coptic civil society between 2011–2013 is to promote not only the rights of Copts as equal citizens but their members and leaders were often active in other movements that promote democracy, inclusion and equality in Egypt. In that sense, there was a positive relationship between their role in the promotion of institutional religious freedom and important dimensions of the public good such as the championing of a free and democratic political order for all, independently of their religion.

The fourth critical role assumed by Coptic social movements in that revolutionary phase was to forge ententes and alliance building with sympathetic allies, be they the youth revolutionary movements or the leaders of the Sufi orders. Such cross-cutting collective action has helped to obstruct the image that they are only interested in advancing the rights of members who share their faith and contributed to the emergence of a broad-based counter-coalition against perceived sources of injustice. In that sense, they contributed to another dimension of the public good, namely the strengthening of a robust civil society.

Fifth, Coptic movements were also active in keeping a check on the political actions of Coptic churches, so that they would not be co-opted by the ruling powers. The Coptic protest movements together with leading Coptic figures played a decisive role in convincing the Coptic Orthodox Church to withdraw from the constituent assembly delegated by the Muslim Brotherhood-led government to draw Egypt's new constitution. At that time in 2011, the acting Pope Bishop Pachomios responded to the growing discontentment felt by the Coptic movements by organising a meeting in which 76 representatives from Coptic movements and civil society activists, media persons and legal experts were invited. Sixty-seven voted for withdrawal, three for freezing the membership and three to continue", she recounts. Bishop Pachomios responded to the pulse of the wide prevailing sentiment among Coptic activists by deciding to withdraw the Coptic Orthodox Church from the constituent assembly. Thanks to the withdrawal of all the Coptic churches (Orthodox, Protestant and Catholic), a domino effect was spurred, leading to the withdrawal of a number of pro-rights political parties and influential public figures from the constituent assembly, sending a strong message to those in power that the constituent assembly's legitimacy is compromised. By actively engaging the Coptic Orthodox church to participate in an open and transparent process of decision-making *vis-à-vis* participation in the constituent assembly, Coptic civic society contributed to another public good: the promotion of clean and transparent governance within the church and in politics at large.

Yet the role of Coptic civil society organizations and movements as mediators of rights came to a standstill by the end of 2013. The demise of Coptic civil society movements is a microcosm of the assault on civil society in Egypt more widely. The issuance of a new protest law in 2014 that introduced government authorization as a prerequisite for engaging in any collective public action thwarted activism for Copts and non-Copts. Moreover, in 2013, many of these collective actors were still at a nascent phase of development in terms of building a strong constituency base and they had not yet consolidated forms of strong

cohesive leadership. Further, they had not developed effective strategies against co-option by security agents or handling internal power struggles. Hence, by the end of 2013, the autonomous Coptic associational platforms for speaking on behalf of Coptic rights had waned and had not adapted by reinventing themselves.

The scope for the press and parliament to hold to account power holders for violations of rights, religious freedoms or otherwise between 2013–2020 also diminished. Informants working in the press have shared with the authors that Pope Tawadrous has colluded with the authorities to give a *carte blanche* to the suppression of Coptic voices of dissent. For example, one informant, a Coptic journalist mentioned that there is a great deal of self-censorship being exercised by the editors of newspapers in Egypt with respect to publishing any news or opinion articles that are critical of Pope Tawadrous or his policies. The journalist noted that the impact of such self-censorship has been to obfuscate discussions around how the church leadership handles sectarian violence experienced by Copts at a local level. In such a context, a real vacuum emerged domestically with respect to the mediation of grievances and representation of demands. When matters pertaining to the violation of rights on religious grounds, who would speak for the rights of Copts? Who would press for accountability? Who would proactively seek to institutionalize policies and practices enabling of inclusive citizenship?

2. Bishop Macarios, the Security Apparatus Struggle over the Visible and Invisible Sites of Power

Minya is both the name of the government demarcated “governorate” to which it appoints a governor but it is also the name of the largest city in this governorate. The governorate has one of the highest geographic concentrations of Copts in Egypt, estimated to account for roughly 30% of the governorate’s population. On account of the large number of Copts and the vast geographic area, the Coptic Orthodox Church split the governorate of Minya into seven dioceses in 2013. The most important and largest diocese included the city of Minya, the town of Abu Qorqas and a very large number of villages and hamlets in the broader governorate. There were then six other dioceses all within the boundaries of the governorate of Minya. They include the dioceses of Maghagha, Bani Mazar, Matay, Samalout, Malawi and Deir Mawas. Here we focus on the diocese of the centre of Minya and Abou Qorwas (later referred to as just the diocese of Minya) as was the original diocese demarcations in 2013 (as will be shown the demarcations of this diocese changed in due course).

By the time the second Egyptian uprising had occurred in 2013, Bishop Arsanious, the Metropolitan Bishop in charge in Minya had reached the age of 83 and had been suffering from Alzheimers for some years. In 2002 Bishop Arsanious had requested from the late Pope Shenouda the appointment of a monk-priest Father Kyrillos El Baramousy to be stationed in Minya to support him in his work. In 2004 Pope Shenouda ordained Father Kyrillos el Baramousy giving him the name Bishop Macarios to support Bishop Arsanious in the management of diocese affairs in Minya. Bishop Arsanious was renowned for his highly participatory and inclusive style of governance (Hasan 2003). He provided Bishop Macarios with mentoring, support, and the opportunity to assume leadership. By 2013, Bishop Macarios had 9 years’ experience in running much of the diocese affairs and was in effect in full control of the affairs as de-facto metropolitan bishop, only lacking the official title.

Bishop Arsanious’ style of engagement with the authorities was one of high levels of cooperation and synchronization. Sectarian tensions which had historically been high in Minya (see Tadros 2013a for an analysis of the reasons in depth) had continued during Bishop Arsanious’ time and yet there was no escalation of relations between Bishop Arsanious and the security apparatus. Bishop Arsanious sought to find ways behind the scenes to resolve the tensions in ways that did not allow for an escalation of tensions. This was partly possible because there were other actors of a Coptic and non-Coptic background who advocates for rights of Copts in Minya. Often, parliamentarians, human rights orga-

nizations and outspoken activists initiated campaigns to redress rights. The role of these actors, as pointed out earlier, came to a close post-2013 creating a very conspicuous political vacuum in who would be representing the rights of those who were victims of sectarian assaults.

Bishop Macarios' style of governance of sectarian relations was different to that of Bishop Arsanious and as early as 2006, he began to clash with the security apparatus on their management of sectarian violence in the diocese. However, in 2013 the contentious relationship became more publicly known. In response to the assaults that the churches in Minya experienced on 13–14 August 2013, Bishop Macarios took to the media to reprimand the authorities and fire services in Minya for failing to respond to the assaults on the churches in time to stop them from being torched or severely damaged (Al-Hayat Today 2013).

In October 2013, there was an assassination attempt made on Bishop Macarios as gunfire was shot on his car when he was making a pastoral visit to Copts in the village of El Serou. This may have represented the pinnacle of hostilities between the authorities in Minya and Bishop Macarios. Bishop Macarios went public with the attempted assassination attempt to which he had been subjected and rumours began to spread in Minya that the assassinator were not extremists. General Osama Metwaly, the director of Security [moder el Amn] initially denied that Bishop Macarios had been subjected to an assassination attempt and claimed that what had happened was an escalation of sectarian relations in El Serou. General Metwaly indicated that it is likely that fire was shot in the midst of an escalation of sectarian tensions and added that Bishop Macarios should have informed the security apparatus of his intention to visit the village of El Serou especially since it was the site of communal tensions since 2006. General Metwaly indicated that the security apparatus will uncover who was behind the assassination attempt and bring them to justice. The assassinator were never caught (El-Miniawy 2013). Several analysts informally shared that this may have been the turning point in relations between Bishop Macarios and the authorities in Minya, becoming more openly antagonistic.

On the 20th May 2016, Soad Thabet, a Coptic Egyptian—seventy year old grandmother, was forcibly taken from her home by a mob of men, stripped entirely of her clothes and paraded in her local village of Karam Abou Omair in Minya (DuVall 2016). Soad Thabet was stripped by a mob of Muslim men incited to avenge the alleged rumour of an affair between her son and one of the men's divorcees. The Muslim woman in question and her family categorically denied any involvement with Soad's son and openly announced that the accusation was driven by financial extortion from Soad's son on the part of her former husband. The intention behind her stripping was to humiliate and denigrate not only her own family, but send a signal to the rest of the Coptic community of the power of the Muslim majority in the village to collectively punish and humiliate (Tadros 2016b). Soad Thabet who became popularly known as "the lady of Karam" had reported threats to the police the night before she was assaulted and had asked for protection in view of the growing warnings her family had received of their predicament if they did not leave the village. The fact that she and her family refused to flee made them a target of sectarian-motivated assault. The initial reaction by the authorities in Minya in the six days that followed was to deny the very occurrence of the assault. From day one, Bishop Macarios went public and shared the assault in its details with all the needed facts and evidence including videos. On the 26th of May 2016, the governor of Minya made an audio appearance on a television show 'Al Masouleyati' hosted by Ahmed Moussa claiming that the incident never happened and accused Bishop Macarios of spreading malicious rumours in Minya (On My Responsibility 2016 (television programme)).

On the 26th and 27th of May 2016 respectively, Bishop Macarios appeared on two television stations declaring that what is happening is a travesty of justice and the real culprits have not been arrested and he openly accused official authorities of not enforcing rule of law (Shortest Speech 2016). The media were in a bind. In the absence of media freedom, they could not openly contest the authorities' version as untruthful yet the space and time they gave Bishop Macarios to present the facts, show the videos and pictures

inevitably tilted public opinion to believing his version of the story. On the 29th of May 2016, President Al-Sissi publicly apologized to the Lady of El Karam in a televised address to her. He added that such acts should never have happened in Egypt and that the rule of law must be enforced and those who were responsible be brought to justice. Bishop Macarios thanked the President and said in a press statement “The President’s words is the best response to those who denied the incidence and shuts the door before urfi solutions and obstructs the efforts of those who wish to do so” (Al-Minyawi 2016). The reference to those who denied the incidence undoubtedly was targeting the governor and the local authorities, thereby showing the President had believed his version of events and not theirs.

Bishop Macarios’ reference to urfi solution was in relation to the informal reconciliation sessions that the authorities deploy to “resolve” sectarian violence against Copts. Since the Mubarak era, the security apparatus has obstructed the enforcement of rule of law and the delivery of justice in the courts for Copts by pressing for the informal resolution of cases of grievances of assault raised by Copts. The pressures on Coptic bishops and priests to participate in these committees has been enormous. Several priests have confided that when sectarian violence against Copts erupts, often the police arrest people from both sides (perpetrator and victim) and Coptic ecclesiastical leadership is under pressure to participate in these reconciliation committees in return for releasing the Copts who have been detained.

Between 2016 and 2017, there were a number of sectarian assaults on Copts in Minya, which involved the torching of houses and property, the expulsion of locals from their villages and a number of killings. These incidents were mostly not covered by the media, and could have been completely ignored, except that Bishop Macarios made a point of making these events publicly known. For example, in the village of Abu Yacoub in July 2016, a group of extremists attacked the houses of five Coptic families, completely destroying them, under the pretext (unfounded) that they were intending to convert one of the houses into a church. Bishop Macarios called for holding those responsible accountable so that others would not be emboldened to commit similar acts. He concluded his plea with an insinuation that his calls for accountability have not found any responsiveness from among the authorities: “We did not leave one authority we did not share our suffering with, and we continue to call for the enactment of the law” (Abdul-Ghaffar 2016).

In July 2017, security forces suddenly shut down a church in the highly impoverished village of Kedwan without any prior warning or precursors. A month later, on the 13th August 2017, Bishop Macarios issued a statement explaining that after a month had passed of attempts at resolving the issue, the Coptic parishioners in Kedwan do not have a place to worship. He explained that the security had said that there are some people in the village who oppose the Copts worshipping there and their feelings must be taken into account. In the statement Bishop Macarios asked whether the security have any regard for the feelings of the Copts who have nowhere to worship. He said that while the constitution enshrines the right to worship for all citizens, this is not happening on the ground on account of the “personal will of some of the local officials”. The naming and shaming of officials as being responsible for denying Copts the right to worship would have been considered incendiary by local authorities and was very much unlike the tactics of engaging with crises that would have been taken by other bishops in other surrounding dioceses in Minya. The authorities retaliated on the 20th of August 2017 by shutting down another church in the village of El Forn, arriving on Sunday morning and informing parishioners there will be no Sunday mass and they do not have the right to use the premise on the pretext that the building is not officially registered. Once again Bishop Macarios protested, this time specifically naming the security apparatuses as being responsible and adding that there are 15 places of worship that are closed by order of the security apparatus despite the church having submitted requests for their registration and added that there are 70 villages and hamlets in his diocese without the presence of any place of worship for the Copts. In a show of strength, the local authorities made it known that no matter what, the two churches will not be reopened. Suddenly a few weeks later in September 2017, President

Al-Sissi intervened and called for the opening of the two churches. Bishop Macarios openly thanked the President and all the officials, political and security in Minya in a statement to the press ([Middle East News Agency 2017](#)).

The reopening of the two churches occurred with much fanfare, very much disproportionate with the size of the congregation or community and in a press interview on the occasion, Bishop Macarios said that when filing complaints to the authorities about the closure of the churches, the church had demonstrated that the Muslims in the communities do not object to the Copts worshipping there. Given that the security justification for their closure was the opposition from within the community, the insinuation there was that the security was behind the decision and that their pretext was unfounded ([Copts United 2017](#)).

In that period Minya also witnessed two major terrorist attacks, the first in May 2017 and the second in November 2018 targeting Copts visiting the same monastery, that of Anba Samuel in the desert of Al Minya. The attacks left many injured and a number of deaths. Following the second attack, after the funerary prayers for the dead, Coptic youth took the caskets of the dead out of the church to the street in protest at the lack of security protection of the Copts in the governorate. In a context where the law prohibits any public demonstration or march without prior security approval, the Coptic youth display of anger in public in large numbers, shouting “with our spirit, with our lives we die for the cross” as well as slogans against security laxity. This defiance raised the ire of the security apparatus to higher levels, as they expected Bishop Macarios who had officiated the prayers in the church to call them to stop and he did not. Instead, he made statements to the press about the grief and pain that the Copts feel for the repeated attacks they experience ([BBC 2018](#)).

The intensity of tensions between Bishop Macarios and the security apparatus continued to rise with every new sectarian assault that occurred in Minya. In January 2019, sectarian tensions arose in the village of Manshe’at El Zaafaran, and the security intervened by closing in on the church and expelling the priest from the village. The conflict between the governor of El Minya and head of security on the one hand and Bishop Macarios reached new heights when a campaign began calling for the removal of Bishop Macarios from his post. For example, on one of the satellite television stations watched by Egyptians, El Mehwar, a renowned media person, Mohamed El Baz in his programme *60 min* endorsed the campaign to remove Bishop Macarios as the source behind fanning the flames of sectarianism between Muslims and Copts in Minya ([Ninety Minutes 2019](#)).

The security which Coptic public opinion believed to be the driver behind the campaign to have him removed as bishop, did not only retaliate through smearing his character but also by blocking him being formally officiated as metropolitan in lieu of Bishop Arsanious who passed away in August 2018. Following the death of Bishop Arsanious, it became an open secret amongst the Copts that the Pope had not formally announced Bishop Makarios as the metropolitan bishop of Minya because of objections from the security apparatus. By government and church laws, all decisions regarding ecclesiastical appointments are supposed to be internal affairs of the church. The pope assumes all decisions pertaining to the appointment and officiation of bishops. However, in the case of Bishop Macarios, it is the first time in contemporary Egyptian history that the security is believed to have meddled in the Pope’s appointments. In May 2019, Pope Tawadrous mentioned that since the diocese of Minya is so large, it will be split into two. This represented a blow to Bishop Macarios, who even if he were to be appointed metropolitan, would preside over half the size of the diocese of his predecessor. The second blow came in June 2019 when the names of the new bishop appointees were announced- and bishop Macarios’ name was not one of them ([Allam 2019](#)).

In 2019, the Pope had a meeting behind closed doors with the priests who presided over parishes in the diocese of Minya, without their bishop. It was confirmed to the authors through highly credible sources that in this meeting the Pope openly told the priests that the security apparatus objects to the ordination of Bishop Macarios. The delayed appointment of Bishop Macarios confirmed for many Copts in Minya the rumour that the security continues to press against his appointment and the Pope is conceding to the pressure.

In April 2020, the press announced that it is expedient that the Pope would appoint Bishop Macarios as Metropolitan over the churches of Minya, while appointing two other bishops to preside over Abou Qorqas and the parishes of Minya east of the River Nile (Rahhuma 2020). The split of the diocese into three separate dioceses meant that the appointment of Bishop Macarios would be over a third of the geographic coverage of the original diocese. One can only speculate what went on behind the scenes. It is highly unlikely that the Pope was punishing Bishop Macarios for being a rebel bishop (rumours would have spread if that was the Pope's sentiment). Conversely, the theory that the Pope endorses the contentious position of Bishop Macarios but prefers to engage in a division of roles between them also seems unlikely. If that were the case, the Pope would not have conceded to the security apparatus blockage of the appointment of Bishop Macarios. There is no evidence that the Pope has shown any willingness to challenge the security apparatus and insist on appointing Bishop Macarios anyway. A more plausible explanation is that the Pope was reluctant to remove Bishop Macarios from Minya entirely since this would make him appear to be a puppet in the hands of the government. Notwithstanding, he did not wish to antagonize the security so he sought to arrive at a political settlement with them that would be mutually acceptable. It is possible the extensive delays in Bishop Macarios' officiation and his presiding over a very small diocese, a third of the original, were concessions to appease the security. On the 6th of April 2021, Pope Tawadros after almost two years' delay, finally officiated Bishop Macarios over a third of the original diocese (Minya city and the villages to the west of the Nile River). It is unknown whether in return for acquiescing to his officiation, the security apparatus asked for particular compromises, such as that Bishop Macarios refrains from being outspoken. Only time will tell.

3. Prospects for Institutionalizing Religious Freedom and Promoting the Public Good

The role of Bishop Macarios in speaking out against infringements on the rights of Copts on religious grounds was extremely important at a time when other institutional pathways for holding the government to account had been completely blocked. It cannot be stressed enough that he was an anomaly amongst the other Bishops in being so openly vocal about violations of religious freedom. Bishop Macarios' championing of citizenship rights for Copts in Minya wielded some very positive impacts for the defence of institutional religious freedom. The first and foremost positive impact was the exposure of violations when the official stance was to deny the occurrence of incidence of sectarian violence against Copts and their subjection to any religious-based targeting and discrimination. Perhaps the incidence of the Lady of Karam was the most impactful as it led the President of Egypt to make an apology, despite the fact that the governor had denied the occurrence of the incidence in the first place. It is also on account of his determination for the truth to be out and ability to share tangible evidence to the media on several occasions that meant that the official narrative was easily disputed and challenged.

The second positive impact for institutional religious freedom is in denouncing the *lejan el solh* or the security-mediated reconciliation committees and pressing for rule for law and accountability. Bishop Makarios' resistance to all forms of pressure to endorse these unjust committees sent a strong signal to the priests at a local level not to bow in to pressure to take part in such committees. When informal reconciliation committees do not convene because the Copts refuse to participate in them, then matters need to be adjudicated through the courts. While this is not to suggest that the judiciary is a neutral institution, it does however, mean that the opportunity of appearing before the court is not denied or circumvented.

The third positive impact for institutional religious freedom is psychological for parishioners in his diocese who have experienced injustice. Bishop Macarios was dubbed by Copts both inside and outside Minya as "the Lion of El Saeed" [El Saeed being the vernacular term for Upper Egypt], with reference to his boldness, defiance, and refusal to yield to intimidation. For parishioners interviewed by the authors, they speak about

the importance of having figures in the church who are prepared to speak up for them, otherwise, who would? They say that when he reveals the truth publicly, it makes them able to walk in the streets with their heads high, knowing that they have a bishop who will press on for their rights. There are some in Minya who do not share these views and are concerned that in escalating relations with the authorities, it is the everyday poor Copts who may stand to lose more than gain, these were however, a minority of views that the authors heard. Reservations expressed regarding Bishop Macarios by parishioners were more often than not about other matters to do with governance in the diocese rather than his stance with the authorities.

The prospects of institutionalizing a culture of promoting religious freedom through figures such as Bishop Macarios whether in the church as an institution or in broader society have proven to involve painful trade-offs. In return for championing the rights of Copts, the institutional religious freedom of the church to govern its ecclesiastical affairs independently of government interference has been severely compromised. The vertical dimension of institutional religious freedom associated with choosing and electing its own religious figures has been violated with the security apparatus' prevention of the appointment of Bishop Macarios in the place of Bishop Arsanios as was expedient in 2018. His appointment over a third of the diocese, and almost two years later sets a dangerous precedent of security overreach in internal church affairs. The fact that it became an open secret within the Coptic church (and in fact among observers of church affairs more broadly including journalists, media persons and others in Egypt) that the delays in appointing Bishop Macarios was on account of security objections is not only an infringement on church autonomy: the optics were of a Pope acquiescing to the will of the security apparatus.

This shows that despite the strong alliance between the President and the Patriarch, this does not protect other tiers of church leadership from the overreach of a highly interventionist security apparatus. The heavy cost incurred from assuming a position of defiance may discourage other bishops from challenging the government in the same way. In other words, the replicability of this model of institutionalizing religious freedom by having more bishops assume the same role seems to be limited.

The other major limitation to the promotion of religious freedom or religious equality through the exclusive reliance on the mode of an outspoken bishop apparent in the case of Bishop Macarios is the costs not only for himself but for the Coptic people. If the security apparatus holds a vendetta against Bishop Macarios, it may play out not only against him personally, but also take the form of a collective punishment of all Copts living under his diocese. This may take the form of reluctance to intervene to enforce rule of law quickly when assaults occur against Copts or obstructing people's right to worship under many different guises. If the security apparatus chooses to punish the Bishop through parishioners, the situation may become very grave if this emboldens hard core Islamists to encroach on Copts.

It is also important to note that there are constraints on the geographic and political sphere of influence for any bishop to champion religious equality. Bishop Macarios is after all a metropolitan bishop. In other words, there is a diocese that falls under his jurisdiction. Shepherding his parishioners who live within the boundaries of his diocese by speaking up on their behalf may be anathema to the authorities but the legitimacy of his representational power or claims is indisputable. However, what happens if Bishop Macarios speaks up on behalf of Copts whose rights have been violated but who reside under another bishop's diocese? Would a national shepherding role be seen as more suited for a Pope than a Metropolitan Bishop? For example, in 2016 a [secular] popular Arabic online website pointed out that when a Coptic citizen Magdy Makeen was killed in a police station situated in al Mattareya, central Cairo, Bishop Macarios visited the family of the victim in their home to pay his respects. The editorial on the website wondered whether the Bishop was playing politics, rather than engaging in pastoral care since it is customary for priests to visit families to console and even if such a role was to be assumed

by a Metropolitan bishop, it would naturally be to members of his own geographic diocese (Al-Arab 2016).

Moreover, for institutional religious freedom to be a public good, its conception of the public good needs to be inclusive. While Bishop Macarios promotion of institutional religious freedom is highly inclusive of those who live in urban as well as rural areas, the wealthy and the very poor, the majority of interviewees pointed to his high levels of religious intolerance towards other Christian denominations present in Minya. Members of the clergy from both Catholic and Protestant denominations confided to the authors that not only has Bishop Macarios sowed religious strife amongst the different religious denominations but actively encouraged it. They believed that in the name of defending Coptic orthodox doctrine, he encouraged hatred among the Orthodox of Coptic Catholics and Coptic protestants.

Finally, the final consideration for the question of the promotion of religious freedom through church leadership does not so much have to do with the personhood of bishops but the very idea of whether it is right to have members of the ecclesiastical hierarchy assume representation for Copts in matters pertaining to citizenship, i.e., state-citizen relations. If Copts are Egyptian citizens whose rights are protected by the Egyptian constitution, should not their grievances be mediated and represented through civic measures? This is a long-standing debate that has extended on for centuries in Egypt and it is beyond the remit of this paper to tackle it, however, it does have implications for understanding institutional religious freedom and the public good. For some, the public good would be undermined if members of the ecclesiastical order speak on behalf of Coptic citizens, since this is giving a civil cause a religious cloak.

The question is whether Bishop Macarios filled a representational vacuum with respect to claims-making on behalf of Copts? Historically, Bishop Macarios' claims-making on behalf of Copts whose rights are encroached on preceded the containment of civil society by the government. As early as 2006, Bishop Macarios was speaking out on violations of Coptic rights. This was a period in which Coptic civil society, albeit constrained was active. While there is no evidence that he endorsed the presence of Coptic social movements or civil society organizations activity with Copts, it seemed that his voice existed alongside theirs. However, post-2014, it seems that the government crackdown on civil society meant that he became practically the only one still standing. Interviewees claim that Bishop Macarios does not have a favourable disposition towards Coptic civic activism through non-governmental activity or social movements in Minya.

Yet the revival of Coptic activism is a missing and necessary ingredient for the promotion of religious freedom in a manner that contributes to public good. The revival of Coptic civil society is not an alternative to the presence of other actors promoting religious equality inside and outside the church, but alongside it. Pluralism of voices, mediation and representation is critical on a number of accounts. The greater the diversity of actors speaking on behalf of Copts, the more likely the survival of claims-making for Copts because if one actor becomes the target of the security apparatus, there would be many others to contend with. In other words, when there are multiple division of roles among Copts vis-à-vis claims-making, this prevents the emergence of major voids in pathways of communicating grievances, which with time may then be filled with more radical voices. Thus, the presence of pluralist actors championing citizenship rights for Copts is critical for a stable social order, a key element of public good. The pluralism of actors and their prevalence in civil society is also critical for the promotion of a free and democratic political order, another dimension of public good, insofar as many of the youth movements such as Maspero and others that were active in 2011–2013 also contributed to the broader agenda of social, economic and political freedoms (Rowe 2020). Moreover, even if not all civil society is necessarily "civil" insofar as some organizations and movements wield norms and values that are antithetical to inclusion and equality (think for example of radical Islamist actors), nonetheless the proliferation of organizations, initiatives and platforms through which Copts can be active is critical for building a robust civil society, which is important for

contributing to public good. Finally, the presence of Coptic civil society activism is good for the promotion of clean and transparent governance within the church as an institution and in Egyptian politics more broadly. Yet in this current political environment, it is highly unlikely that the Copts would be given the space to engage in public action associated with revealing violations, mediating grievances and pressing for accountability. Ramy Kamel, one of the founders of the Maspéro Youth movement was detained in November 2019 with “reported charges of membership of a terrorist organisation and use of social media to spread “false news threatening public order”, which according to a statement by UN experts, “neither he nor his lawyers has seen documentation relating to the charges.” The statement by the UN (UN) suggests that his arrest coincided with his application for a Swiss visa to speak at the UN Forum on Minority Issues. Informants in Egypt shared that his arrest may have to do more with a political position he espoused on a highly sensitive political matter in Egypt not associated with his activism on behalf of Copts. What is clear is that there has not been any *public* advocacy for his release by the Coptic Orthodox Church nor by any of its leaders.⁴

Perhaps until spaces for civil society activism open, finding the niches under the church umbrellas to engage in civic activism is a temporary interim pathway for expression of voice without becoming the target of the authorities. The strength of this is it may contribute to institutionalizing transparency and good governance within the church and enable the thorough documentation of religious freedom matters as well as provide leadership building opportunities for young people. On the other hand, the trade off is it may deny participants autonomy and self-governance and possibly circumscribe the extent to which they are allowed to engage in contentious politics.

4. Conclusions

The situation in 2021 is qualitatively different to that in 2011 not only because the spaces for civic engagement have become deeply circumscribed, but because the regional context has made many Egyptians especially Copts weary of the political alternatives to the current status quo. Neighbouring Libya and Syria have been ravaged by civil war, whose effects have been deeply felt by Egypt. For Copts, the experience of living under the Muslim Brotherhood generated a “never again” sentiment informed by the knowledge that the rise of an Islamist political power signifies a vendetta with the Copts for their endorsement of the ouster of President Morsi. In such a context, President Al-Sissi’s political gestures of recognition towards the Copts as well as a number of political overtures are always compared to the policies of his predecessor (in particular the Muslim Brotherhood candidate, President Morsi) and considered in a favourable light by many Copts. However, there are limited opportunities of downward accountability from the presidential leadership to local governance institutions and upward accountability through civil society mediating the demands of citizens to the higher echelons of power. Institutionalization of religious freedom at the level of the local authorities including security actors has not occurred. At a community level, people ideologically affiliated to ultra-conservative groups such as the Salafis or ousted political actors such as the Muslim Brotherhood are still able to mobilize groups to launch attacks on Copts. Institutionalization of religious freedom has also been very limited (as of Early 2022) at a national level with respect to the level of the judiciary, legislature and executive organs of the state.

The mediation of Coptic grievances via open contestation in the singular case of Bishop Macarios in Minya has also meant a trade-off in institutional religious freedoms. Bishop Macarios was able to have violations against Copts recognized and in some instances redressed at the level of individuals and communities in Minya, but in return, the vertical dimension of institutional freedom for the church as a religious organization has been compromised. This sets a dangerous precedent.

Pope Tawadros has come under fire for not speaking out in cases of violations experienced by Copts, however, he would not need to, if Coptic civil society movements were able to assume the role of speaking on behalf of Copts whose rights are violated and

hold the government to account for its policies. This would allow for a division of roles that is politically justified- the Pope can maintain a political rapport with the President, while allowing Copts to mediate their demands through non-ecclesiastical pathways. Yet the church leadership's low threshold for the presence of alternative voices from within Coptic civil society to advocate and hold to account has hurt the Copts. While the church leadership has benefited from the absence of Coptic civil society holding it to account for its own policies, the trade-off is a loss not only for institutional religious freedom but also for contribution to public good. Currently, lay members participation in church affairs provides the church with a strong constituency, economic resources and a deeply relevant role in the spiritual and social realms. However, the denial of a space for Coptic lay persons to press the church for greater transparency on decision-making and greater accountability for its decision-making may in the long run hurt the institutional freedoms enjoyed by the church. For example, failure to address any internal incidence of abuse of power, if not handled internally through appropriate means, may spill over into the public domain, causing loss of public face.

There are no optimum "rules of the game" for securing religious equality, every option has its tradeoffs between different religious freedoms, some are more impactful at the level of the Coptic laity, others at the level of the church leadership, with some having greater implications for public good than others. The challenge in the upcoming phase will be how to protect the alliance between the Pope and President while creating the space for a pluralization of Coptic voices who can speak on behalf of the Copts. The institutionalization of religious freedom in such a scenario will also incur painful tradeoffs, but it also wields potential for contributing to public good from the point of view of supporting a robust civil society and promoting transparent governance.

Author Contributions: M.T. and A.H.; methodology, M.T.; writing—original draft preparation, A.H.; writing—review and editing, M.T. and A.H. All authors have read and agreed to the published version of the manuscript.

Funding: This research received no external funding.

Institutional Review Board Statement: The study was conducted according to the guidelines of the Declaration of Helsinki, and approved by the Institutional Review of Institute of Development Studies.

Informed Consent Statement: Informed consent was obtained from all subjects involved in the study.

Conflicts of Interest: The authors declare no conflict of interest.

Notes

- ¹ This formulation of the public good is a key feature of RFI's Freedom of Religious Institutions in Society (FORIS) Project and is found on the FORIS webpage: <https://www.religiousfreedominstitute.org/foris-project> (accessed on 20 July 2021).
- ² As the focus here is on domestic actors operating within a particular political context, the paper does not cover the agency of Coptic rights-demanding organizations in the Diaspora and that of transnational Coptic broadcasting stations, as important as they are in claims-making on behalf of Copts, they are beyond the remit of this paper so are best addressed in a separate inquiry.
- ³ For description and analysis of Coptic youth movements between 2013 and 2013 see for example (Delgado 2015; Du Roy 2016; Tadros 2013a, 2016a).
- ⁴ Ramy Kamel was finally released from prison in January 2022.

References

- Abdel-Fattah, Nabil. 2010. *Religion, the State, and Sectarianism*. Cairo: Al-Masry Foundation for Citizenship and Dialogue.
- Abdul-Ghaffar, Hassan. 2016. In a Statement to the Bishporic of Minya: Anba Makarios Demands Accountability for Those Involved in the Sectarian Events of Abu Yaqoub. *Al Youm Al-Sabee' Newspaper*, July 16. Available online: www.youm7.com/story/2016/7/16/2801567/ (accessed on 23 March 2021).
- Al-Arab. 2016. Anba Makarios, a Politician Wearing a Monk'S Cloak, He Raises Question Marks among the Egyptian. *Al-Arab Website*, December 31. Available online: alarab.co.uk/الأنبا مكارئوس سياسى يعبأه راهبئيرتساؤلاتاالمصرئبناالطائفية/ (accessed on 12 January 2021).

- Al-Feki, Mustafa. 1998. *Thought Nights in Vienna*. Cairo: Dar el-Shorouk for Publishing.
- Al-Hayat Today. 2013. *Anba Makarios Bishop of Minya: The Ministry of Interior behind the Burning of Churches*. (Arabic Version). Video, posted by Ehab ahmed. August 16. Available online: www.youtube.com/watch?v=XZ85ppWYVAE (accessed on 12 March 2021).
- Al-Jazeera Net. 2018. Sisi Reception in New York ... What Does the Egyptian Church want? *Al-Jazeera*, September 25. Available online: www.aljazeera.net/news/reportsandinterviews/2018/9/25/استقبالاالسيسيبنويوركماذاتريد (accessed on 16 May 2021).
- Allam, Sarah. 2019. The ordination of Bishop Makarios as bishop of Minya outside the list of Pope Tawadros the second. *Al Youm Al-Sabee' Newspaper*, June 3. Available online: www.youm7.com/story/2019/6/3/الأنبا مكاريوس أسقفًا للمنيا خارج قائمة البابا-البابا-4270437/تواضروس-الثاني (accessed on 23 March 2021).
- Al-Manawy, Abdul Latif. 2005. *The Copts: The Church or the Motherland*. Cairo: Atlas for Publishing and Distribution.
- Al-Minyawi, Hamis. 2016. Al-Sisi Apologizes to the Lady of "Al-Karm" .. and Affirms: The Law Will Take Its Course for Everyone. *Al Ghad Newspaper*, May 30. Available online: <https://www.alghad.tv/%D8%A7%D9%84%D8%B3%D9%8A%D8%B3%D9%8A-%D9%8A%D8%B9%D8%AA%D8%B0%D8%B1-%D9%84%D8%B3%D9%8A%D8%AF%D8%A9-%D8%A7%D9%84%D9%83%D8%B1%D9%85-%D9%88%D9%8A%D8%A4%D9%83%D8%AF-%D8%A7%D9%84%D9%82%D8%A7/> (accessed on 12 March 2021).
- Al-Qods Al-Arabi. 2019. The Coptic Pope promotes Sisi during a European tour: Egypt has never seen anything like it in its history. *Al-Qods Al-Arabi Newspaper*, May 20. Available online: www.alquds.co.uk/جولةأوباباالأقباطيرؤجلسيسبخلال (accessed on 23 March 2021).
- Atiya, Aziz. 1968. *History of Eastern Christianity*. London: Methuen.
- Atiya, Aziz. 1979. *The Copts and Christian Civilization*. Utah Salt Lake: University of Utah Press.
- Badrawy, Ahmed. 2016. Pope Tawadros ... absolute support for June 30. *Al-Shorouk Newspaper*, July 3. Available online: www.shorouknews.com/news/view.aspx?cdate=03072016id=cfd3506b-8deb-4d9d-b483-631acdbce63d (accessed on 12 March 2021).
- BBC. 2013. Tawadros the Second, Pope of Egyptian Copts, Accuses President Morsi of Negligence. *BBC Arabic*, April 9. Available online: www.bbc.com/arabic/middleeast/2013/04/130409_pope_tawadros_comments (accessed on 12 March 2021).
- BBC. 2018. Tears and Anger at the Funeral of the Victims of the Minya Attack in Southern Egypt. *BBC Arabic*, November 9. Available online: www.bbc.com/arabic/middleeast-46087634 (accessed on 12 March 2021).
- Brownlee, Jason. 2018. Social Relationships and the Prevention of Anti-Christian Violence in Egypt. *The Middle East Journal* 72: 66–88. [CrossRef]
- Coptic Solidarity International. 2021. Facts vs. Fiction. Available online: <https://www.copticsolidarity.org/2021/03/17/facts-vs-fiction-coptic-solidaritys-fact-checking-of-the-religious-freedom-and-diversity-document-issued-by-the-embassy-of-egypt-in-the-u-s-a-2/> (accessed on 19 April 2021).
- Copts United. 2017. Bishop of Minya: There are 14 closed places belonging to the church, and we are waiting to open them respectively. *Copts United*, September 11. Available online: www.copts-united.com/Article.php?I=3115A=336587 (accessed on 23 March 2021).
- Delgado, Magdalena C. 2015. Contentious Copts: The Emergence, Success, and Decline of the Maspéro Youth Movement in Egypt. In *Contentious Politics in the Middle East*. Middle East Today. Edited by Fawaz A. Gerge. New York: Palgrave Macmillan. [CrossRef]
- Durham, W. Cole, Jr. 2001. The Right to Autonomy in Religious Affairs: A Comparative View in Gerhard Robbers. In *Church Autonomy: A Comparative Survey*. Frankfurt: Peter Lang.
- Du Roy, Gaetan. 2016. Copts and the Egyptian Revolution: Christian Identity in the Public Sphere. In *Egypt's Revolutions*. The Sciences Po Series in International Relations and Political Economy. Edited by Bernard Rougier and Stéphane Lacroix. New York: Palgrave Macmillan. [CrossRef]
- DuVall, Eric. 2016. Christian woman stripped naked marched through streets in rural Egypt. *UPI*, May 28. Available online: http://www.upi.com/Top_News/World-News/2016/05/28/Christian-woman-stripped-naked-marched-through-streets-in-rural-Egypt/6851464465901/ (accessed on 20 June 2021).
- El-Miniawy, Mohamed. 2013. Minya General Director of Security (Modeer Amn Al-Minya): Anba Makarios did not inform us of his going to the sectarian war-torn village of al-Sarw. *Veto*, October 1. Available online: www.vetogate.com/Section-3/614832-طائفيًا-محافظة-مدير-أمن-المنيا-الأنبا-مكاريوس-لم-يخطر-نا-بذهابه-إلى-قرية-السرو-المحتقة (accessed on 20 June 2021).
- Elsässer, Sebastian. 2014. *The Coptic Question in the Mubarak Era*. New York: Oxford University Press.
- Farha, Mark, and Salma Mousa. 2015. Secular Autocracy vs. Sectarian Democracy? Weighing Reasons for Christian Support for Regime Transition in Syria and Egypt. *Mediterranean Politics* 20: 178–97. [CrossRef]
- Farouk, Mahmoud, Amy Hawthorne, and Ahmed Rizk. 2018. Assessing the Impact of Egypt's 2016 Construction Law. Available online: https://pomed.org/wp-content/uploads/2018/12/CCL_Report_181212_FINAL.pdf (accessed on 20 June 2021).
- Guirguis, Laure. 2016. *Copts and the Security State Violence, Coercion and Sectarianism in Contemporary Egypt*. Stanford: Stanford University Press.
- Hasan, Sonya. 2003. *Christians versus Muslims in Modern Egypt: The Century-Long Struggle for Coptic Equality*. New York: Oxford University Press.
- Ibrahim, Vivian. 2010. *The Copts of Egypt: The Challenges of Modernisation and Identity*. London: I. B. Tauris.

- Kamel, Caroline. 2019. Tawadros the Second: The different aspects of the patriarch in six years. *Egyptian Initiative for Personal Rights*, January 13. Available online: Eipr.org/blog/تواذروس-الثاني-الأوجه-المختلفة-للبطريرك-في-سنة-أعوام/01/2019/كارولين-كامل (accessed on 23 March 2021).
- Khalil, Emad. 2018. Pope Tawadros: Egypt is experiencing a modern renaissance ... thanks to Sisi's conscious vision. *Al-Masry Al-Youm Newspaper*, October 12. Available online: www.almasryalyoum.com/news/details/1332310 (accessed on 12 March 2021).
- Labebe, Hany. 2012. *The Egyptian Church: Balancing State and Religion*. Cairo: Nahdet Miser Publishing House.
- Levi, Margaret, and Barry R. Weingast. 2019. Politics: Douglass North's Theory of Politics. *American Political Science Association* 52: 213–17.
- Middle East News Agency. 2017. Bishop of Minya: We thank president El-Sisi for reopening two closed churches Sunday. *Al Youm Al-Sabee' Newspaper*, September 10. Available online: www.youm7.com/story/2017/9/10/-سقف-3405842/النياناشكر-الرئيس-المسيح-إعادة-فتح-كنيسة-مغلقتين (accessed on 23 March 2021).
- New Khalij. 2019. Pope Tawadros: Sisi is a brilliant maestro, and we both have chemistry. Available online: [//thenewkhalij.news/article/174689/البابا-تواذروس-والمسيح-يمايسترو-بارعو-بيننا-كيميا](http://thenewkhalij.news/article/174689/البابا-تواذروس-والمسيح-يمايسترو-بارعو-بيننا-كيميا) (accessed on 16 May 2021).
- Ninety Minutes. 2019. *Why Did "90 min" Demand the Dismissal of Anba Makarios, the General Bishop of the Diocese of Minya and Abu Qurqas, for the Coptic Orthodox?* (Arabic Version). Video, Posted by ElMehwar Tv Channel. January 13. Available online: www.youtube.com/watch?v=QgT_BTbrpZQ (accessed on 12 March 2021).
- North, Douglass. 1992. Institutions, Ideology, and Economic Performance. *Cato Journal*, Cato Institute 11: 477–96.
- Odeh, Jihad. 2014. *The Fall of the Brotherhood State*. Cairo: Kunooz Publishing and Distribution.
- On My Responsibility. 2016. *Anba Makarios and the Governor of Minya: A Rumor behind the Outbreak of the Crisis in the Al-Karm Village in Abu Qurqas Minya* (Arabic Version). Video, Posted by Followme News 001. May 26. Available online: www.youtube.com/watch?v=l2wAvshYWDE (accessed on 12 March 2021).
- Rahhuma, Mustafa. 2020. The ordination of a head for Abu Makar Monastery and the setting up of Aba Makarios in Minya next November. *Al Watan Newspaper*, July 9. Available online: www.elwatannews.com/news/details/4895542 (accessed on 23 March 2021).
- Rowe, Paul. 2020. The church and the street: Copts and interest representation from Mubarak to Sisi. *Religion, State Society* 48: 343–60. [CrossRef]
- Safwat, Gergis. 2020. El-Sisi in the Cathedral: Seven Visits in Five Years, and the Pope Says Its Impact is Great. *Dostor Newspaper*, January 6. Available online: www.dostor.org/2962458 (accessed on 12 March 2021).
- Sedra, Paul. 2014. Copts and the Millet Partnership: The Intra-communal dynamics behind Egyptian Sectarianism. *Journal of Law and Religion* 29: 491–509. [CrossRef]
- Sen, Amartya. 2001. *Development as Freedom*. Oxford: Oxford University Press.
- Shafiq, Suleiman. 2014. *The Copts from Tahrir Squair to the Liberation Theology*. Cairo: El Mahrousa Center for Publishing and Distribution.
- Shah, Timothy. 2021. Institutional Religious Freedom in Full: What the Liberty of Religious Organizations Really Is and Why It Is an "Essential Service" to the Common Good. *Religions* 12: 414. [CrossRef]
- Sholkamy, Hania. 2015. Egypt's love-hate relationship with research. *Al Ahram Online*. Available online: <https://english.ahram.org.eg/NewsContentP/4/133755/Opinion/Egyptys-lovehate-relationship-with-research.aspx> (accessed on 12 December 2021).
- Shortest Speech. 2016. *Anba Makarios—General Bishop of Minya and Abu Qurqas Clarifies the Truth about the Attack on a Christian Woman*. (Arabic Version). Video, posted by Al Nahar TV. May 27. Available online: www.youtube.com/watch?v=dJZGvjqmyYY and www.youtube.com/watch?v=ynVjmTcf5mM (accessed on 12 March 2021).
- State Information Service. 2017. Pope Tawadros Meets Merkel at Coptic Orthodox Cathedral. Available online: <https://www.sis.gov.eg/Story/108059?lang=en-us> (accessed on 15 February 2021).
- Tadros, Mariz. 2009. Vicissitudes in the Entente between the Coptic Orthodox Church and the State in Egypt (1952–2007). *International Journal of Middle East Studies* 41: 269–87. [CrossRef]
- Tadros, Mariz. 2013a. *Copts at the Crossroads: The Challenge for Inclusive Democracy in Contemporary Egypt*. Cairo: American University in Cairo Press.
- Tadros, Mariz. 2013b. Copts under Mursi, Defiance Under Denial. *Middle East Report Online*, 267, Summer 2013. Available online: <https://merip.org/2013/06/copts-under-mursi/> (accessed on 16 May 2021).
- Tadros, Mariz. 2016a. Copts of Egypt: Defiance, Compliance, and Continuity. In *Christianity and Freedom*. Law and Christianity. Edited by Allen Hertzke and Timothy Shah. Cambridge: Cambridge University Press, pp. 338–71. [CrossRef]
- Tadros, Mariz. 2016b. Are we all beheaded Copts? *Opendemocracy*, December 12. Available online: <https://www.opendemocracy.net/en/5050/are-we-all-beheaded-copts-outrage-in-libya-0/> (accessed on 16 May 2021).
- Tamri, Tanios. 2018. Pope Tawadros Is in the Goal of the Anger of Church's Parishes. *Al-Mashhad*, September 19. Available online: www.elmashhad.online/Post/details/93667 (accessed on 16 May 2021).
- UN. 2019. Egypt Must Free Coptic Christian Rights Defender Reportedly Held on Terror Charges. *Say UN Experts*, December 11. Available online: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25419> (accessed on 12 January 2021).

Article

Ensuring Individual Rights through Institutional Freedoms: The Role of Religious Institutions in Securing Religious Rights

Jonathan Fox ^{1,*} and Roger Finke ²¹ Department of Political Studies, Bar-Ilan University, Ramat Gan 5290002, Israel² Department of Sociology and Criminology, Pennsylvania State University, University Park, PA 16802, USA; rfinke@psu.edu

* Correspondence: Jonathan.Fox@biu.ac.il

Abstract: Understanding the restrictions placed on religious institutions and associations, or the freedoms that they are denied, is essential for understanding the limits placed on individual religious freedoms and human rights more generally. This study uses the Religion and State round 3 (RAS3) dataset to track restrictions faced by religious organizations and individuals between 1990 and 2014 and explores how reduced institutional freedoms results in fewer individual freedoms. We find that restrictions on both institutional and individual religious freedoms are common and rising. Restrictions on institutional religious freedom are harsher against religious minorities than restrictions on individual freedoms. However, against the majority religion, restrictions on individual religious freedoms are harsher.

Keywords: Religious freedom; religious institutions; human rights

Citation: Fox, Jonathan, and Roger Finke. 2021. Ensuring Individual Rights through Institutional Freedoms: The Role of Religious Institutions in Securing Religious Rights. *Religions* 12: 273. <https://doi.org/10.3390/rel12040273>

Academic Editors: Timothy Shah and Nathan A. Berkeley

Received: 17 March 2021

Accepted: 7 April 2021

Published: 15 April 2021

Publisher's Note: MDPI stays neutral with regard to jurisdictional claims in published maps and institutional affiliations.



Copyright: © 2021 by the authors. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

1. Introduction

Human rights are by definition focused on the individual.¹ The Universal Declaration of Human Rights declares that "... the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women²..." As a result, the UN and other organizations monitoring these rights tend to focus on individual rights and freedoms, such as the freedom of expression and thought, freedom of movement, ability to own property, adequate living and working conditions and the right to a host of civic, political and educational rights. Although human rights documents and activities acknowledge the importance of freedom of assembly and association for the individual, they give little attention to the freedoms of the associations where the individuals are assembling³.

Despite this extensive focus on individual rights, securing and protecting the rights of individuals relies on institutions and organizations receiving freedoms of their own. The most obvious are the multitude of Human Rights Organizations (HROs) who advocate for specific rights and monitor the activities of states and other institutions in supporting these rights. However, political parties, worker groups, voluntary associations and many other organizations are critical both for securing and protecting these rights. We argue that understanding the restrictions these associations face, or the freedoms that they are denied, is essential for understanding human rights more generally.

¹ This research was supported by the Israel Science Foundation (Grant 23/14), The German-Israel Foundation (Grant 1291-119.4/2015) and the John Templeton Foundation. Any opinions expressed in this study are those of the authors alone and do not necessarily reflect those of the supporters of this research.

² UN Universal Declaration of Human Rights Available online: <https://www.un.org/en/about-us/universal-declaration-of-human-rights/> (accessed on 12 April 2021).

³ This is evident in the area of religion as well. Later UN documents, both the International Covenant on Civil and Political Rights and Declaration on the Elimination of All Forms of Intolerance (1966) and Discrimination Based on Religion and Belief (1981), acknowledge the importance of the religious collective, but they remain focused on individual rights (Scolnicov 2011).

Recognizing the restrictions placed on religious institutions is especially critical for understanding the limits placed on individual religious freedoms. Because the individual's practice of religion is often dependent on religious institutions and because religious institutions hold varied relationships with the state and surrounding culture, the religious freedoms of individuals are frequently intertwined with the freedoms of religious institutions. We acknowledge, of course, that all human rights are dependent on institutional support. Yet, we argue that for religion the relationship between institutional rights and individual rights is more tightly interwoven and is in need of exploration

Relying on data from the Religion and State round 3 (RAS3) collection, we will document the restrictions faced by religious organizations and individuals, chart these restrictions over time, and offer a global profile of where they are most common. Before we explore the data, however, we review the distinctive relationships religious institutions hold with the state and larger culture, we explain how this contributes to increased restrictions, and we explore how reduced institutional freedoms result in fewer individual freedoms.

2. Motives for Restricting Institutional Freedoms

Although the motives for restricting institutional religious freedoms (IRF) are varied, many of the motives arise from the distinctive relationships religion holds with the state and larger culture. Many of these motives are related to perceived threats. Religious alliances with the state, institutional competition between religions, competition with secular institutions, security risks, and ethnic, political, and national ties can all provide motives for restricting religious institutions.

One of the most common threats is the religious and cultural competition that minority religions pose for the dominant religion. Past research has established that dominant religions often seek an alliance with the state that provides increased support for their religion and increased restrictions on their religious competitors (Gill 2008, pp. 45–47; Stark and Finke 2000, pp. 199–200; Grim and Finke 2007, pp. 50–51; Finke 2013, pp. 300–1). Muslim-majority countries supporting a strict version of Sharia law provide the most obvious examples today, but all world religions form these alliances with the state. The government's financial, legislative and legal support of the dominant religion and a diverse array of restrictions placed on minority religions are designed to increase the dominant religion's competitive advantage. For adherents of the minority religions, however, these restrictions curtail or completely prevent individuals from openly practicing their religion.

Even when the dominant religion fails to hold a strong formal alliance with the state, the dominant religion and larger culture can restrict the activities of minority religious institutions. Non-state actors have enforced severe and sometimes violent restrictions on minority religions. In India, for examples, Muslims have been the most frequent targets of mob violence and killings by non-state actors, such as "cow vigilante" groups. Yet, no religious minority is exempt. During 2019 alone, Christians and Christian institutions in India were the target of 366 documented acts of violence or harassment. These actions included 7 churches being demolished or burned and 62 worship services being stopped⁴. Motivated to restrict the religious, political or cultural influence of religious minorities, non-state actors curb the activities of religious organizations through vandalism, persecution of clergy, refusing to lease to a specific religious group, or denying adherents access to an existing religious structure. However, societal-based discrimination against religious minorities far more often targets members of the minority rather than institutions specifically (Fox 2020, pp. 56–88).

The perceived threat of religious institutions, however, is not limited to minority religions or religious competition. The state holds many secular motives for restricting religions and often restricts majority religious institutions (Fox 2015, pp. 105–35). In

⁴ These actions were documented in the Religious Liberty Commission of the Evangelical Fellowship of India report: "Hate and Targeted Violence against Christians in 2019." Available online: <http://www.efionline.org/articles/351/20200315/rlc-report-hate-and-targeted-violence-against-christians-in-2019-persecution-persecuted-church-church-in-india.htm> (accessed on 20 April 2020). See the India International Religious Freedom Report, 2018 for additional estimates on violence and persecution of religious minorities by non-state actors.

extreme cases, the state holds a secular ideology that is formally opposed to religion. Mao's Cultural Revolution (1966–1979) sought to eliminate all religions in China and the former Soviet Union aggressively promoted a scientific atheism opposed to religion (Froese 2008; Yang 2012). Remnants of these policies remain in many communist and former communist nations, with restrictive registration requirements often preventing many religions from formally existing or openly meeting. In the case of China, heavy restrictions remain on all religions (Yang 2006, pp. 96–99; 2012, 85–122; Grim and Finke 2011, pp. 135–40). Yang (2019) reports that “since Xi Jinping came to power in 2012, militant atheism has prevailed as national policy.” The oppressive treatment and ban of Falun Gong (Richardson and Edelman 2004, pp. 370–2), the aggressive campaign against Christian house churches (Yang 2019), and the destruction of thousands of Uighur Muslims mosques are the most obvious examples⁵ (Auslin 2019a, 2019b). China does allow some state-sponsored religious institutions for Protestants, Catholics, Muslims, Buddhists, and Taoists but these organizations face extensive approvals, requirements, and ongoing monitoring of their public worship.

Secular motives for restricting the activities of all religious institutions, however, are not limited to a few communist or former communist nations. Just as religions can compete with each other for political privileges, secularism has become a political competitor to dominant and minority religions alike. Fox (2015, p. 28) explains that political secularism advocates that “religion ought to be separate from all or some aspects of politics and/or public life.” This form of secularism comes in many forms. The more passive forms require that religion remain out of government and that the state either does not interfere with religion or does so equally for all religions. The more assertive forms among democracies, as practiced in France, bans state support of any religion and places strong restrictions on the presence of religion in public spaces. Stressing that religion should be limited to the private realm, the more assertive forms of secularism advocate for more restrictions on religious institutions in the public realm (Kuru 2009; Fox 2015). In non-democracies, anti-religious ideologies can result in even more severe restrictions (Philpott 2019).

Finally, religious institutions can be viewed as security risks by the state (Lausten and Wæver 2003; Cesari 2013; d’Appollonia 2015). Because religious institutions are centers of religious rites and devotion, they have proven effective at securing a commitment that surpasses nationality or loyalty to the state. As social institutions with an active membership, they have proven effective at mobilizing group action (Finke and Harris 2012; Djupe and Neiheisel 2018; Wald et al. 2005). The perceived risk is heightened still further when religion serves as a marker of long-standing ethnic, racial and national struggles between groups. Regardless of the actual threat, long-standing prejudices and perceived threat can fuel more restrictions against religious institutions (Fox 2020; Fox and Topor 2021). Previous work has found that security concerns are often used in Western countries to justify increased restrictions against Muslim minorities (Fox et al. 2019).

The distinctive relationship religious institutions hold with the state and larger culture, and the perceived threats they can pose to other institutions, results in distinctive societal and state pressures for restricting these institutions. These restrictions, however, have significant consequences on the religious freedoms of individuals.

3. Institutional and Individual Religious Rights

Social scientists have long acknowledged the interconnectedness of different levels of analysis (Emerson 1962; Coleman 1986). Just as social institutions and structures are the product of individual actions and beliefs, the expectations and demands of social institutions can shape the behavior and beliefs of individuals. Moreover, the state and larger culture can restrict and shape the actions of both the institution and the individual.

⁵ The non-profit Radio Free Asia reported that the Chinese government destroyed more than 5000 mosques in 2016–17 alone and more that 1 million Muslim Uighurs were sent to re-education or internment camps (Auslin 2019a, 2019b).

This interplay between the different levels of analysis is clearly evident when studying religion (Finke 1990; Stark and Finke 2000). Religious institutions hold distinctive relationships with individuals, the state and the larger culture. Relationships that highlight why understanding the freedoms of religious institutions is critical for understanding the religious freedoms of individuals.

Unlike HROs mobilized to support specific rights related to equality or quality of life, religious institutions are the source of many of the religious practices being promised to individuals. This is especially important for the Abrahamic religions where routine public worship and prayer with a local gathering of fellow members is considered an essential requirement for religious practice. Practicing the Jewish, Christian, and Muslim faiths includes social and group components that typically rely on institutional supports. For Jews, the weekly Shabbat includes public worship conducted in a temple or synagogue and led by a rabbi. Christian groups typically host worship services at least once each week that often includes a Eucharistic ritual conducted by an ordained pastor or priest. For Muslims, the Friday noontime prayer, the Jumah, is a congregational event hosted by the Imam and held at the mosque. Many devout Jews and Muslims also participate in communal prayers multiple times a day. The individual adherents for each of these groups relies on the religious institutions to organize and authorize these group activities. Even non-Abrahamic religions, which often place less emphasis on group activities, rely on temples or other institutions to provide sacred spaces and religious services for individual adherents. Thus, the practice and protection of many individual religious freedoms requires protecting the freedoms of religious institutions (Zhang 2020).

Beyond the routine religious activities, individuals also rely on religious institutions and their clergy to authorize and supervise rites of passage. In Hinduism, Jainism, Buddhism and Sikhism the rites are referred to as Sanskara and vary in number both within and across the religious traditions. Catholic Christians have defined seven of the rites as sacraments and other Christians treat many of these rites with a similar reverence. Likewise, Muslims and Jews have specific ceremonies and rituals for performing these rites of passage. Virtually all world religions provide individuals with sacred rites related to birth and naming, marriage, death, entering adulthood and multiple other life events. Each of these ceremonies typically rely on the larger religious community. As a result, restricting the freedoms of religious institutions and their clergy denies individuals access to some of the most cherished and sacred religious rites during the life course.

Just as individuals rely on religious institutions for some of their most valued rituals and activities, religious institutions rely on the state and larger culture for their own freedoms. Because institutions include a formal organizational structure and often a place of worship, they are easier to locate and regulate than individual beliefs and behavior. Government registration requirements offer one example (Sarkissian 2015). Past research has established that this is one of the most pervasive methods for restricting and monitoring religious institutions. Registration requirements have increased sharply over the past two decades and a growing number of the requirements severely limit the activities of religious institutions and often threaten their survival (Finke et al. 2017). As the data will reveal, however, this is only one of many institutional restrictions.

The public presence of all religious institutions makes them a highly visible target for state or societal efforts to control religion. Regardless of the methods or the motives for restricting religious institutions, however, the end result is the same: both institutional and individual freedoms are denied. When restrictions are placed on religious institutions ability to operate openly and publicly, restrictions are also placed on the individual's religious freedoms. Relying on the RAS3 collection, we will document the restrictions placed on institutions and explore how they are related to individual freedoms.

4. Measuring Institutional Religious Freedom (IRF)

This study relies on the Religion and State round 3 (RAS3) dataset to measure institutional religious freedom (IRF). Initially designed to measure government religion policy, the

third round of this collection contains a large number of variables measuring restrictions on IRF. A university-based project, this collection draws its information from multiple sources including academic publications, human rights organization reports, government sources such as the US State Department Religious Freedom Reports, reports from multi-state organizations such as the UN and EU, and media sources. (Fox 2015, 2020) All variables are coded yearly for the 1990–2014 period⁶.

RAS3 divides limitations on religious freedom (both IRF and other types of religious freedom) into two categories: religious discrimination against religious minorities and the regulation of majority religions. Religious discrimination measures “restrictions on the religious practices and institutions of religious minorities which are not placed on the majority religion.” (Fox 2019, pp. 15–16) Religious regulation measures “the regulation of the majority religion (such regulations are usually also applied to minority religions).” (Fox 2019, p. 16). Fox (2015, pp. 136–39) points out that these are distinct because the motivations for restricting minority religions can be very different from those for restricting a majority religion or all religions in a country. For example, North Korea restricts all religions in the country and Saudi Arabia restricts all religions other than the state supported brand of Islam. In both countries Christians, for example, are heavily restricted but for very different reasons. In addition, while in theory, all of the types of discrimination and restrictions could apply to both categories, in practice, the manner in which governments restrict majority and minority religions differ. Accordingly, while there is some overlap between these two categories, many items in each category are different from those in the other category.

In order to sort out which types of restrictions and discrimination also constitute restrictions on IRF, it is important to define what IRF means specifically. As all RAS variables measure government policies which restrict either religious minorities or the majority religion, this definition must be a practical one which refers to exactly what government actions would constitute restrictions on IRF. We argue that four categories of government action fit this description.

First, restrictions directly on religious institutions or clergy. We include clergy in this category because clergy are central to the operation of religious institutions, often represent religious institutions, and can be considered an element of religious institutions in and of themselves. This is perhaps the most straightforward of these categories. Actions such as banning a religious institution or restricting a minority’s access to clergy are clearly actions which in some way limit religious institutions and are therefore violations of IRF.

Second, restrictions on institutions associated with religious institutions. These institutions have a strong connection to religion but are not necessarily churches, mosques, synagogues or temples. This can include religious educational institutions. It can also involve other forms of associations such as religious political parties and trade unions.

Third, restrictions on religious activities that are by their nature communal and often occur under the umbrella of religious institutions. This can include a wide variety of activities such as communal prayer, weddings, funerals, religious rites of passage, and religious publications. Of course, all of these activities can take place outside of the context of religious institutions. However, they are also all activities that not only often occur in the context of religious institutions, it is arguable that it is a central task of religious institutions to perform and facilitate these religious activities.

Such religious activities also include religious speech in the context of religious institutions. This can include language considered “hate speech” in some countries because many central precepts of major religions can be contrived as hate speech such as religious bans on homosexuality, for example. However, this speech must be by clergy or in the context of a religious institution.

⁶ For a more detailed discussion of the data collection procedures, reliability tests, and an explanation for why the scales are additive rather than weighted see Fox (2008, 2011) and Fox et al. (2018).

Fourth, restrictions on political speech or political activities by clergy or religious institutions. While this strictly does not restrict religion itself, it does undermine the independence of religious institutions. To ban a religion from participating in politics prevents the religious institution from representing its interests to the government and the people, which can undermine its ability to act independently.

Based on these criteria, 19 of the 36 types of discrimination against religious minorities constitute violations of IRF and 19 of the 29 types of religious restrictions violate IRF. We discuss each of these in detail in the following section.

5. How Common Is Discrimination against Religious Minority Institutions?

Overall discrimination against the institutions of religious minorities is very common. In 2014, the most recent year for which data are available, 79.2% of countries restricted the IRF of at least one religious minority. These violations of IRF are found across world regions and major religions. We will focus on general trends and findings in Table 1 below, but more detailed findings by world religion and region can be found in Table A1 of our Appendix A.

Table 1. Types of Institutional Discrimination against Religious Minorities, 1990–2014.

Restrictions on/Government Actions	All Countries	
	1990	2014
<i>Worship and Gatherings</i>		
Build, lease, or repair places of worship	41.5%	51.9%
Registration	39.9%	44.8%
Access to places of worship	21.9%	32.8%
Public observance	27.9%	33.9%
Private observance	11.5%	18.6%
Formal organizations	19.1%	37.9%
Anti-cult/sect laws	12.0%	21.3%
<i>Religious Rites</i>		
Religious marriage and divorce laws	12.6%	12.0%
Religious burial	17.5%	21.3%
Circumcision or rites of passage	0.0%	0.5%
<i>Related Institutional Operations</i>		
Religious schools/religious education	15.3%	23.0%
Import religious publications	20.8%	21.3%
Religious materials	6.6%	8.1%
Write/publish/disseminate rel. publications	20.8%	26.2%
<i>Clergy and Institutional Voice</i>		
Ordination/access to clergy	15.8%	18.6%
Clergy access to jails	19.1%	21.9%
Clergy access to military	21.9%	24.0%
Clergy access to hospitals	13.1%	15.3%
Arrest/detention/harassment	21.3%	34.4%
Mean scaled for comparison	0.33	0.43

5.1. Worship and Gatherings

Virtually all religious institutions support some form of communal worship or prayer and most try to devote a sacred space or building for their gatherings. Yet, for religious minorities these buildings and gatherings face some of the most frequent restrictions. Below and in Table 1 we review some of the most common forms of institutional religious discrimination (IRD) that minority religions face and document the sharp rise in most forms of IRD between 1990 and 2014. During the 25 years of the data collection, 17 of the 19 measures in the RAS3 collections increased and the increase was statistically significant for ten of these measures.

The most common form of IRD is restrictions on the building, leasing, or maintaining of places of worship, which was present in 41.5% of countries in 1990 and increased to 51.9% by 2014. While in some cases these restrictions are overt national policy, in Western countries such as Andorra, Australia, Austria, France, Germany, Iceland, Italy, Malta, Spain, and the United States, they are most often due to local governments denying the necessary building and zoning permits.

Registration requirements and restrictions are the second most common form of IRD and were present in 39.9% of countries in 1990, increasing to 44.8% in 2014. This is a particularly important form of IRD because denial of registration is a common governmental tactic to restrict minority religions. (Finke et al. 2017; Sarkissian 2015, pp. 33–34) It becomes particularly important when three conditions are present, (1) registration is required, (2) registration is sometimes denied, and (3) unregistered religious organizations are restricted. For example, in Eritrea all religious groups must renew their registration each year and many are denied. Religious practice by unregistered religions is illegal and often leads to arrest and imprisonment. The government often shuts down unregistered places of worship and breaks up meetings of unregistered religious groups which take place in private residences and sometimes seizes property from those residences⁷.

Denial of access to existing places of worship is also common and present in 21.9% of countries in 1990 and 32.8% in 2014. In many former Communist countries this is because properties seized in the Communist era have yet to be returned. For example, in Bulgaria this applies to many Muslim, Jewish and Catholic places of worship. This type of restriction becomes more severe when, as is the case in Bulgaria, it is combined with the previous one. In Bulgaria denial of permits was particularly hard on Jehovah's Witnesses and Muslims. In 2009 a change in zoning plans invalidated a previously approved permit for Jehovah's Witnesses to build a house of worship. Requests to build a second mosque in Sofia were delayed from 2002 until 2009 when the request was formally denied. In July 2011 the Supreme Administrative Court confirmed an order for the destruction of a mosque's minaret, at the expense of the mosque, that authorities declared was a separate building and needed an additional construction permit⁸.

In 2014, 33.9% of the countries restricted the public observance of religion up from 27.9% in 1990⁹. These restrictions are often closely tied to the registration requirements reviewed above. For example, a 2009 law in Armenia requires that all religious organizations have a minimum of 500 members to register. In addition, Armenia's Criminal Code (Article 162) outlaws the establishment of religious organizations which inflict damage to individuals' health, impact others' rights or encourage refusal to perform civic duties¹⁰ (see section on conscientious objectors). This law is used to effectively ban a number of religious organizations including the Jehovah's Witnesses. As a result, these organizations are severely limited in their ability to maintain places of worship and engage in public ceremonies and prayer.

Restrictions on private religious observance are less common and were present in 11.5% and 18.6% of countries in 1990 and 2014 respectively. Like a number of Muslim-majority countries Morocco often breaks up meetings of Christians in private homes. For example, in 2010, government agents raided a meeting of Christian citizens who were arrested and confiscated computers, phones, and Bibles. While they were eventually released without charges their possessions remained in police custody and a foreign resident was deported on charges of proselytizing to Muslims¹¹.

⁷ US State Department Religious Freedom Report 2009–2014, Eritrea, available online: <https://www.state.gov/international-religious-freedom-reports/> (accessed on 12 April 2021).

⁸ US Department of State *Religious Freedom Report Bulgaria 2009, 2010, 2011, 2013*.

⁹ As some countries were not yet independent or had no functioning government in 1990, the numbers for 1990 represent 1990 or the first year in which data are available.

¹⁰ Criminal Code of the Republic of Armenia 2003.

¹¹ US Department of State *Religious Freedom Report Morocco 2010*.

Banning or placing restrictions on religious organizations nearly doubled between 1990 (19.1% of countries) and 2014 (37.9% of countries). In many cases this type of restriction is placed on organizations that the government considers extremist, dangerous or violent. For example, while in 2013 the German government took several steps to recognize and formalize its relationship with mainstream Islamic organizations, in the same year the government banned several Muslim groups. The government considered these groups anti-democratic and pro-jihad. Some of them were accused of plotting to murder right-wing activists who displayed cartoons of Muhammad and were linked to a gunman who killed US airmen in Germany. Some of their leaders were arrested. This took place in the context of surveillance of a larger number of “suspect” Islamic groups¹². In other countries such as Saudi Arabia and the Maldives, this represents a wholesale ban on any minority religious organization.

Finally, many countries ban or restrict religions that they consider cults. In 1990 this occurred in 12% of the countries and increased to 21.3% by 2014. During this period, Angola, Austria, Belgium, China, the Czech Republic, France, Hungary, India, Kazakhstan, Kyrgyzstan, Lithuania, Italy, Kenya, Russia, Rwanda, Togo, and Uganda all passed laws or otherwise began a policy of restricting or banning at least one religion they consider a cult. There is little agreement in both politics and academia on the definition of the term “cult.” Academic definitions focus on a cult’s small size, dangerous or violent practices and the presence of a charismatic leader. (Almond et al. 2003, pp. 91, 103; Appleby 2000, p. 204; Grim and Finke 2011, pp. 47–48) Anti-cult policies tend to focus on religions which are small and new to a country. As Thomas (2001, p. 529) puts it, “there is . . . [an] informally defined universe of acceptable religions and spiritualities. Those which fall outside this universe are stigmatized as cults”.

5.2. Religious Rites

Local religious institutions, and the buildings they often support, are most frequently used for worship, prayer and other communal activities that occur on a routine basis. As noted earlier, however, some of the most valued rituals are the rites that consecrate an important stage in the life course. These religious rites frequently rely on the sacred space, authorized clergy and communal support of the local religious institution. As a result, some religious rites are limited or outlawed due to more general restrictions on the religious group or their clergy. A few of the RAS3 measures, however, identify restrictions on specific religious rites.

Marriage is a ceremony often performed in places of worship and for many religious people divorce is not possible outside of religious auspices. While restrictions on the observance of religious marriage and divorce laws dropped from 12.6% of countries in 1990 to 12.0% in 2014, this type of restriction is still present in one out of 8.3 countries. For example in India marriage and divorce laws follow those of a person’s religion. Sikhism, Jainism, and Buddhism, despite being distinct religions with their own traditions including those related to marriage and divorce, are considered by the government to be subsets of Hinduism. Thus, under Indian law, members of these religions are subject to the marriage and divorce laws of a religion other than their own. However, in 2012, the Parliament passed a law that permits Sikhs to register their marriages under their own laws. This law does not extend to divorce¹³.

Most religious people prefer to be buried under the auspices of their own religion. This right was restricted on 17.5% of countries in 1990, increasing to 21.3% in 2014. In Greece

¹² US Department of State Religious Freedom Report Germany 2010, 2013; (14 March 2013) Radical Islamist groups banned in Germany reportedly linked to Bosnian Salafis BBC Monitoring Europe; Germany bans three ‘anti-democratic’ Islamic groups, BBC News available online: <http://www.bbc.com/news/world-europe-21774997> (accessed on 13 March 2013); Eddy, M. (13 March 2013) Germany arrests 4 and bans groups linked to Salafism, New York Times available online: http://www.nytimes.com/2013/03/14/world/europe/germany-arrests-4-and-bans-groups-linked-to-salafism.html?_r=0 (accessed on 12 April 2021).

¹³ The Times of India, Sikhs can register marriages under Anand Act, available online: <http://timesofindia.indiatimes.com/india/Sikhs-can-register-marriages-under-Anand-Act/articleshow/13393220.cms> (accessed on 12 April 2021).

the law requires exhumation of bodies after three years. This violates Islamic religious law. Most Greek Muslims are buried in Thrace, where due to treaty obligations with Turkey, an exception is made, or in their country of origin. The Thrace Muslim community reported that some of their cemeteries were not maintained, as required by law¹⁴. Additionally, several religions include cremation in their burial rites. Until 2006 cremation was illegal in Greece. Since then, no crematory facilities have been established due to Greek Orthodox Church officials' objections¹⁵.

Restrictions on circumcisions and other religious rites of passage are far rarer and were only present in three countries in 2014. As Fox (2020), pp. 155–56 notes:

Since 2001 Sweden regulates male circumcision. Circumcision of male infants must be performed by a licensed doctor or if someone certified by the National Board of Health and Welfare (NBHW) attends. The NBHW has certified mohels (persons trained to perform the Jewish ritual of circumcision) to perform circumcisions but they may do so only in the presence of an anesthesiologist or other medical doctor. This places a significant burden on performing the ritual. Denmark passed a similar law in 2005¹⁶ as did Norway in 2014.

In practice in these countries, a rite that most Jews had previously practiced in synagogues was moved to medical clinics in order to avoid violating these laws.

5.3. Other Institutional Operations

Beyond providing support for communal worship, prayer and rites of passage, the institutions of religious minorities are frequently involved in education and publication. Both practices are often limited by registration requirements and both face even more resistance when they are tied to a nation or a larger international community not supported by the state. Table 1 offers a few examples from RAS3.

Once again, the restrictions showed a sharp increase from many of the measures. Restrictions on religious schools and education increased from being present in 15.3% of countries in 1990 to 23.0% in 2014. For example, Hungary's 2011 Religious Freedom act required all religious organizations to re-register. While most mainstream organizations successfully registered, many smaller groups were denied registration. As a result many of their activities have been curtailed. This includes the closing of several religious schools¹⁷.

Restrictions on disseminating and importing religious publications, including primary religious texts such as the Bible or Koran, also increased. By 2014, 26.2% had restrictions on the writing and disseminating of religious publications and 21.3% restricted the importing of religious publications. For example, in Vietnam all religious publications must be published and approved by the State Publishing House's Office of Religious Affairs, or by other government-approved publishing houses. Officially unregistered religions are not allowed to publish. However, in practice, some private, unlicensed publishing houses were able to unofficially print and distribute religious texts¹⁸. Although mentioned less frequently, countries also had restrictions on religious materials other than publications. These restrictions were present in 6.6% of the countries in 1990 and 8.1% in 2014.

5.4. Clergy and Institutional Voice

Religious institutions are the most visible target for state action against minority religions and the clergy are the most visible target within the institution. As the authorized

¹⁴ US Department of State *Religious Freedom Report Greece 2010, 2013*.

¹⁵ European Commission against Racism and Intolerance (2009) Report on Greece available online: <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Greece/GRC-CbC-IV-2009-031-ENG.pdf> (accessed on 20 April 2020); A ban on religious rites at cremations The New Vision; The Anglican Church in Greece (2014) Death, funerals and cremation in Greece available online <http://www.anglicanchurch.gr/13.html> (accessed on 20 April 2020); Dabilis, A. Greece still awaits first crematorium, Greek Reporter <http://greece.greekreporter.com/2013/05/03/greece-still-awaits-first-crematorium/> (accessed on 20 April 2020).

¹⁶ Retsinformation online: <https://www.retsinformation.dk/Forms/R0710.aspx?id=162591> (accessed on 12 April 2021).

¹⁷ Act CCVI On the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities; US Department of State *Religious Freedom Report Hungary 2013*; Baer, D. (18 March 2013) *Testimony Concerning the Condition of Religious Freedom in Hungary, Submitted to the US Commission on Security and Cooperation in Europe* (The Helsinki Commission).

¹⁸ US State Department Report on International Religious Freedom, 2009, 2010, 2011, 2012, 2013, 2014.

leaders for performing rites and leading worship and prayers, they serve as representatives for the larger religious group. In many cases, they are the voice of the religious institution. This authority, visibility and voice, however, also makes them frequent targets for restrictions. Restrictions that attempt to control who can become clergy and what they can do as clergy.

Restrictions on ordination and access to clergy increased modestly from 15.8% in 1990 to 18.6% in 2014. One example is Denmark's so-called "Imam Law" enacted in 2004. While the law was written broadly to apply to foreign clergy of all religions, in practice it is targeted against Muslim clergy. The law requires that the number of religious residence visas issued to foreign clergy should be proportional to the size of the religious community. It also requires that the applicant be associated with a recognized religion, possess a proven relevant background for religious work and be self-financing. The legislation denies a visa if there is "reason to believe the foreigner will be a threat to public safety, security, public order, health, decency or other people's rights and duties", alluding to Imams who preach ideas contrary to Danish cultural norms¹⁹. In the Netherlands, all imams and other spiritual leaders recruited in Islamic countries must complete a year-long integration course before being allowed to practice²⁰. Since 2005 in the UK, the government can exclude individuals, including religious leaders, from the country if they have engaged in "unacceptable" behavior. The government defines unacceptable behavior as using any means, including religious expression, to express views that foster extremism or hatred²¹.

Restrictions on clergy access to jails, hospitals, and the military increased modestly as well. In 1990 26.4% of governments limited access to at least one of these spaces for at least some minority clergy, when compared to clergy from the majority religion. This increased to 30.1% by 2014. Russia restricts access to all three. Only registered organizations can provide clergy to hospitals and jails, and Russia regularly denies registration to a wide variety of religions. In the military, even registered organizations may provide chaplains only if members of their religion constitute 10% or more of a unit. In numerous cases, where Muslims were more than 10% of a unit, access to Muslim clergy was still denied. In addition the Russian Orthodox Church is given preferred access to all of these institutions. In prisons, nearly all chaplains are from the Russian Orthodox Church²².

The arrest, detention, and harassment of religious minorities often focuses on clergy and increased from being present in 21.3% of countries in 1990 to 34.4% in 2014. China, for example, supports five state-sponsored religious organizations for Catholics, Protestants, Muslims, Buddhists, and Taoists. Any religious organization not under the auspices of one of these organizations is subject to closure by the government and clergy for these organizations are regularly harassed, detained, and imprisoned. Because many religious groups, including most Christian congregations, are not state approved, the clergy of these groups are frequent targets. A trend that increased following China's revision of the "Regulations of Religious Affairs" in 2018 (Yang 2019).

5.5. Comparing Institutional and Non-Institutional Discrimination against Religious Minorities

Each of the measures reviewed above documents how institutions of religious minorities face discriminatory restrictions that are not imposed on other religions. As noted earlier, however, restrictions on the freedoms of institutions results in restrictions on the freedoms of individuals. For religious institutions the link is especially close. The institutional restrictions reviewed above each challenge basic individual rights by limiting

¹⁹ US Department of State Report on Religious Freedom, 2009; The Times (London), "Denmark to Curb Muslim Preachers" by Anthony Browne, 19 February 2004.

²⁰ US Department of State *Religious Freedom Report Netherlands 2013*; Euro-Islam.info *Islam in Netherlands* available online: <http://www.euro-islam.info/country-profiles/the-netherlands/> (accessed on 12 April 2021).

²¹ US State Department Report on International Religious Freedom, 2009, 2010.

²² US Department of State *International Religious Freedom Report, 2012*; Forum 18 News Service, *Russia: Religious Freedom Survey, 2012*; Available online: http://www.forum18.org/archive.php?article_id=1722 (accessed on 12 April 2021).

individuals’ ability to manifest their “religion or belief in teaching, practice, worship and observance²³.”

Figure 1 illustrates how closely these freedoms are related. Using standardized scores to allow for comparison, this figure charts the overtime trends for the summary measure of institutional discrimination against religious minorities and compares it to the summary measure for non-institutional discrimination against religious minorities. With few exceptions, they each show a continual increase overtime. Yet, the standardized score for institutional discrimination is consistently higher than non-institutional discrimination and the gap between the two measures increases overtime²⁴. The two forms of discrimination are closely linked, though the institutions of religious minorities are proving to be the most frequent targets.

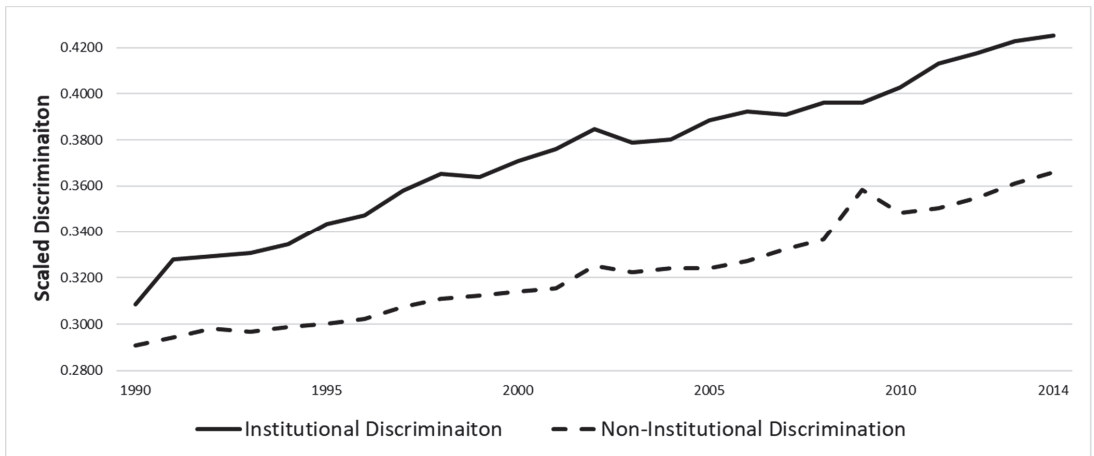


Figure 1. Discrimination Against Religious Minorities, 1990–2014. Significance (*t*-test) between institutional and non-institutional <0.001 in 1990–2014. Significance (*t*-test) between institutional in 1990 and institutional <0.05 in 1996–1997, <0.01 in 1998–1999, <0.001 in 2000–2014. Significance (*t*-test) between institutional in 1990 and institutional <0.05 in 1993, <0.01 in 1994, and <0.001 in 1995–2014.

6. How Common Are Restrictions on All Religious Institutions?

When we look at all religious institutions, rather than limiting our attention to religious minorities, government restrictions remain high. Similar to religious minorities, IRF is on the decline for all religious institutions, with 18 of the 19 RAS3 measures showing an increase in institutional religious restrictions (IRR) over the 25 year collection. By 2014, 76% of countries imposed at least one of the restrictions on the majority religion, as shown in Table 2.

Despite their favored status, even the majority religions face IRR, including their internal institutional activities and their activities in the public square. Indeed, in many countries the dominant religion faces careful monitoring of state requirements on their institutional practices and their clergy. Once again, we focus on general trends and findings, but more detailed findings by world religion and region can be found in Tables A3 and A4 of our Appendix A.

²³ The full wording of Article 18 in the 1948 Universal Declaration of Human Rights is: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

²⁴ For a more detailed review on of non-institutional discrimination against religious minorities, see Table A2 in the Appendix A.

Table 2. Restrictions on All Religious Institutions, 1990–2014.

Restrictions on/Government Actions	All Countries	
	1990	2014
<i>General Requirements and Restrictions</i>		
Formal religious organizations	12.0%	16.2%
Government influences religious orgs.	17.5%	21.3%
Government passes/approves laws governing state religion	14.2%	13.1%
Restrictions/harassment of non-state sponsored/recognized religious format	15.3%	28.4%
State ownership of some rel. property	25.7%	26.8%
<i>Worship and Gatherings</i>		
Public observance of religious practices	8.2%	12.6%
Rel. activities outside recognized facilities	9.3%	16.4%
Religious public gatherings not placed on other public gatherings	4.4%	6.0%
Access to places of worship	6.6%	10.4%
Foreign religious orgs. require sponsors	6.6%	8.7%
<i>Related Institutional Activities</i>		
Religious trade/civil associations	6.0%	6.6%
Religious political parties	23.5%	37.2%
Publication/dissemination of written religious material	10.9%	12.0%
<i>Clergy and Institutional Voice</i>		
Sermons by clergy	21.3%	27.3%
Political activity by clergy/rel. institutions	23.5%	34.4%
Arrest/detention/harassment of religious figures/officials/rel. party members	10.9%	14.8%
Heads of religious orgs. must be citizens	7.7%	9.3%
All practicing clergy must be citizens	2.2%	4.8%
Government appoints clergy	25.7%	28.4%
At least one type	66.1%	76.0%
Mean	5.54	7.17
Mean scaled for comparison	0.29	0.38

6.1. General Requirements and Restrictions

A few types of IRR cover the general operation of institutions. These can range from blanket bans or restrictions on all religions to specific laws on what institutions are expected to teach or how they are organized.

Our first item, restrictions on formal religious organizations, measures restrictions placed on formal religious organizations such as churches, mosques, and synagogues as well as larger religious associations meant to represent the interests of religious denominations. This is a restriction that generally applies to all organizations including and especially the mainstream majority religious organization and was present in 12.0% of countries in 1990, increasing to 16.2% by 2014. Perhaps the most extreme case of this phenomenon is North Korea which bans all religious organizations. While the government created religious “federations” for Buddhists, Protestants and Catholics, former refugees and defectors attest that these federations are led by political operatives whose goals are to support and enforce the government’s policy of control over religious activity.

Other forms of influence over religious organizations are also common with 17.5% of governments doing so in 1990 increasing to 21.3% by 2014. This refers to forms of influence other than government influence over the appointment of clergy and government approval of religious laws. In some countries like Djibouti, this is due to general government control of all majority religious institutions. The Ministry of Islamic Affairs controls in Islamic matters, including mosques, private religious schools, and religious events, as well as general Islamic policy in the country. The ministry also coordinates all Islamic NGOs in the country²⁵. In other countries, the control is less all-encompassing. For example, in Azerbaijan all registered Islamic organizations must provide a yearly report of their activities to the government²⁶.

For some nations, the laws governing the state religion are passed by the government or require the government’s approval. These often cover key theological issues or address how religious institutions organize themselves. In 2014, 14.2% of governments engaged in

²⁵ US State Department Religious Freedom Report 2009–2014, *Djibouti*, available online: <https://www.state.gov/international-religious-freedom-reports/> (accessed on 12 April 2021).

²⁶ *Law of the Republic of Azerbaijan on Freedom of Religious Belief* with amendments through 2011; US Department of State *Religious Freedom Report Azerbaijan 2013*; Balci and Goyushov (2014).

this practice, up from 13.1% in 1990. In some cases, such as Iran and Gaza, the government and religious authorities are the same. In some cases the influence is less extensive. For example, Article 41 of Morocco's constitution names the Superior Council of the Ulemas as the only body permitted to issue religious rulings (fatwas), which must be approved by the King.

Restrictions on non-state sponsored or supported institutions involves cases where there is a state-supported or recognized set of institutions for the majority religion and at least some alternative institutions are banned or restricted. This is becoming increasingly common. It was present in 15.3% of countries in 1990 and rose to 28.4% by 2014. This is particularly common in Orthodox Christian majority countries and mostly involves disputes within or between Orthodox churches. In Bulgaria, this is due to a dispute over the leadership of the Bulgarian Orthodox Church where the government supports one set of leaders and represses the "Alternative Synod." Similarly in Russia the Russian Orthodox Autonomous Church does not accept the authority of the current leadership of the Russian Orthodox Church and is restricted by the Russian government. Montenegro supports the Montenegrin Orthodox Church which was established in 1993 at the expense of the Serbian Orthodox Church. Moldova similarly supports the Russian Orthodox Church and represses the Romanian Orthodox Church.

Finally, state ownership of religious property is a common means for restricting and controlling the majority religious institutions. This does not refer to chapels for religious services in government institutions such as military bases but, rather, religious property intended for use by the wider public. This policy was present in 25.7% of countries in 1990, increasing slightly to 26.8% in 2014. For example, the traditionally anti-clerical states of France and Mexico own most religious property in the country. In France, all religious buildings built before 1905 belong to the state based on its 1905 Law on the Separation of Church and State. Mexico's 1917 constitution makes all religious property the property of the state. The constitution was amended in December 1991 removing a number of restrictions on religious institutions so all religious property built since 1992 now belongs to the association which built it.

Foreign religious organizations required a sponsor in 6.6% of countries in 1990, increasing to 8.7% by 2014. In Kazakhstan this is part of a broader set of restrictions on foreign religion in the country. All missionaries, nationals and foreign, must be associated with a registered religious association. Foreigners may not register religious groups and all signatories on religious registration applications must be citizens. Foreign religious associations must be given governmental approval for their activities in Kazakhstan.

6.2. *Worship and Gatherings*

Once again, we find that many of the restrictions on religious institutions are targeted at the core religious activities of worship and public gatherings. Some are aimed at the majority religion, but most apply to all religions. Many of the restrictions addressed the state's concerns about religion in the public arena.

In 1990, 8.2% of governments restricted or controlled the observance of the religious practices of the majority religion in public. This increased to 12.6% by 2014. In some cases, such as Uzbekistan, this is due to government control of all religious activities. The government limits the number of legal religious institutions, bans all religious activities outside of them and controls all religious activities within them. In other countries the regulation is less onerous. For example, according to Latvia's 1995 Law on Religious Organizations, religious organizations must coordinate public religious activities with the local municipalities in which they take place.

Religious organizations often organize religious activities outside recognized religious facilities. In 1990, 9.3% of countries restricted at least some such activities. This increased to 16.4% by 2014. In China, any religious activities which take place outside of state-sponsored religious institutions are illegal. Such unrecognized places of worship are shut down by the state. In other cases, the restrictions are not as absolute. In the Ukraine, for example,

religious groups must apply at least ten days in advance for a permit to hold religious services, activities, and processions in public places outside of religious and burial sites²⁷.

A few countries had specific restrictions on religious public gatherings not placed on other public gatherings. These restrictions are placed specifically on religious gatherings, even if the activities are not religious in nature, and not gatherings under other auspices. These restrictions were present in 4.4% of countries in 1990 and increased to 6.0% in 2014. For example, in 2014 Equatorial Guinea's government decreed that any religious activities taking place outside the hours of 6:00 a.m. to 9:00 p.m. or outside of registered places of worship require government permission. The decree also prohibits religious acts or preaching within private residences and requires foreign religious representatives or authorities to obtain advance government permission to participate in religious activities²⁸.

In a growing number of nations the government has restricted access to places of worship. This increased from 6.6% in 1990 to 10.4% by 2014. In Tajikistan, these restrictions are particularly harsh. Mosques, madrassas, and other houses-of-worship are routinely closed either due to "infractions of the law" or without explanation. Since 2007 this policy has escalated and many mosques, Muslim prayer halls, the country's only synagogue in the capital Dushanbe, and Protestant churches have been closed, demolished, or confiscated without compensation. In 2013, Tajikistan's government-controlled Council for Religious Affairs suspended the activities of seven of the country's eight madrassas. Only one madrassa for students above the ninth grade continued to operate²⁹.

6.3. Related Institutional Activities

Government concern for the role of religious institutions in the public arena is increasingly extending far beyond their worship and gatherings. For example, 6.6% of the countries now place restrictions on religious unions or trade associations. Portugal, Guinea-Bissau and Mozambique each have constitutional provisions banning religious trade unions.

Far more common, however, are restrictions on religious political parties. These restrictions were present in 37.2% of states in 2014, a large increase from 23.5% in 1990. Azerbaijan, Bangladesh, Belarus, Brunei, Cambodia, Chad, Congo-Brazzaville, Djibouti, Gabon, Gambia, Ghana, Honduras, Israel, Kenya, Madagascar, Nigeria, Morocco, Pakistan, Sierra Leone, Sudan, and Uganda all added this type of restriction after 1990. In some cases these restrictions were only against certain political parties. In Israel, for example, several religious political parties remain legal and are often members of the governing coalition. However, certain Jewish religious political parties deemed racist are banned. In other countries these new restrictions were broader. For example, Djibouti's 1992 Constitution states that a political party is prohibited "to identify themselves to a race, to an ethnicity, to a sex, to a religion, to a sect, to a language or to a region." Congo-Brazzaville, Gambia, and Ghana, among many other states, added similar constitutional provisions after 1990.

Although facing fewer restrictions than the minority religions, majority religions also faced restrictions on publishing and disseminating religious literature. These activities, which are core activities for many religious organizations, were restricted in 10.9% of countries in 1990 and 12.0% in 2014. Unsurprisingly, this is a common practice, at least to some extent, in Communist countries such as China, Cuba, Laos, Vietnam and North Korea. However, this type of ban can occur for reasons other than anti-religious ideology. In Indonesia, the 1978 Guidelines for the Propagation of Religion (Ministerial Decision No. 70/1978), seeks to reduce inter-religious tensions by banning proselytizing or dissemina-

²⁷ US Department of State International Religious Freedom Report, July–December 2010, 2011, 2012; available online: <https://www.state.gov/international-religious-freedom-reports/> (accessed on 12 April 2021).

²⁸ US State Department Freedom of Religion 2014, *Equatorial Guinea*, available online: <https://www.state.gov/international-religious-freedom-reports/> (accessed on 12 April 2021).

²⁹ Forum 18 News Service, *Tajikistan: Religious Freedom Survey 2011*, by Mushfig Bayram and John Kinahan, 17 March 2011; available online: http://www.forum18.org/archive.php?article_id=1553 (accessed on 12 April 2021); US State Department Report on International Religious Freedom, 2013; available online: <https://www.state.gov/international-religious-freedom-reports/> (accessed on 12 April 2021).

tion of religious materials to people of another religion, use of material inducements to encourage conversion, and door-to-door missionary activity³⁰.

6.4. Clergy & Institutional Voice

Once again, the visibility, leadership and voice of the clergy have been a significant concern for many nations. From clergy politics to clerical appointments and activities, state's often attempt to monitor and control the clergy. The clergy of majority religions, or religions with a sizable following, are often of significant concern because they have the potential to mobilize more support. The RAS3 collection found restrictions on clergy in several key areas.

The message from clergy is most frequently heard in the form of a sermon and is increasingly receiving attention from governments. In 1990 21.3% of governments monitored, controlled, or restricted sermons given by clergy. By 2014 it increased to 27.3% of all nations. A number of Middle Eastern countries engage in this practice both to ensure that the sermons conform to the government-approved interpretation of Islam and in order to assure that the sermons do not oppose or criticize the government. These include Algeria, Jordan, Kuwait, Morocco, Oman, the Palestinian Authority, Qatar, Saudi Arabia, (pre-civil war) Syria, Tunisia, Turkey, and the UAE. Mexico, as part of its historical anti-clerical policies, bans clergy from expressing political views including in sermons.

The second most common form of IRR is restrictions on political activity by clergy or religious institutions. The use of these restrictions jumped from 23.5% of all countries in 1990 to 34.4% by 2014. Some of these restrictions are relatively mild. For example, in the US if a religious institution advocates for or against the election of a political candidate it can lose its tax status as a non-profit organization but advocating for or against particular policies is allowed. Other countries ban a wider range of activity. Costa Rica's constitution, for example, bans religious political propaganda by clergymen and laymen. Similarly, in Singapore clergy may not engage in political activity or disparage the state.

In several countries, clergy violating state requirements incur stiff penalties. The arrest, detention, or harassment of religious figures, officials, or party members occurred in 10.9% of countries in 1990, increasing to 14.8% in 2014. This is largely limited to Communist states and former communist states that retain communism's anti-religious approach, such as Turkmenistan, Tajikistan, and Uzbekistan.

For a few countries citizenship of the clergy was a concern. In 1990 the heads of the majority religious organization were required to be citizens in 7.7% of countries and in 2.2% all clergy were required to be citizens. By 2014 this increased, respectively, to 9.3% and 4.8%. For example, according to a 1978 law in Haiti only the Ministry of Worship can grant the titles of priest, pastor, or minister of a church. These titles can be granted only to Haitian citizens³¹. In most countries where these types of restrictions are present, they apply mostly to senior officials. For example, in Panama, all senior Church officials must be citizens³².

Finally, government appointment or approval of senior clergy is a common way to control or restrict religious organizations and in 2014 was present in 28.4% of countries, up from 25.7% in 1990. This is not uncommon in Western democracies with official religions such as Denmark, Greece, Luxembourg, and the UK. It is particularly common in the Middle East where all countries other than Iraq, Morocco, Qatar, and the Western Sahara engage in some form of this practice.

³⁰ Refugee Review Tribunal Research Response: Indonesia (2007) available online: https://www.ecoi.net/file_upload/1788_1294846009_idn31419.pdf (accessed on 12 April 2021).

³¹ Religlaw, International Center for Law and Religion Studies, *Republic of Haiti: Law and Religion Overview*, by Jordan Pendergrass; available online: <https://www.religlaw.org/portal.country.php?pageId=22&countryId=84#home> (accessed on 1 April 2021).

³² Religlaw, *Panama: Law and Religion Overview*; available online: <http://www.religlaw.org/common/document.view.php?docId=5656> (accessed on 12 April 2021), Panama By Susan M. Hassig, Lynette Quek © 2007, Marshall Cavendish.

6.5. Comparing Institutional and Non-Institutional Restrictions on All Religions

Like the minority religions, there is a close link between IRR and individual religious freedoms for all religions. Using a summary measure for IRR and a summary measure of non-institutional restrictions, Figure 2 charts the trends overtime. Once again, we use a scaled score for each summary measure to allow for easy comparisons³³. Like discrimination against religious minorities, the restrictions on all religions are rising for both institutional and non-institutional government restrictions. However, IRR is consistently lower than restrictions on the majority's individual religious freedoms. Similar to Figure 1, the results suggest institutional and individual freedoms are closely linked, but individuals are the more frequent targets of government restrictions.

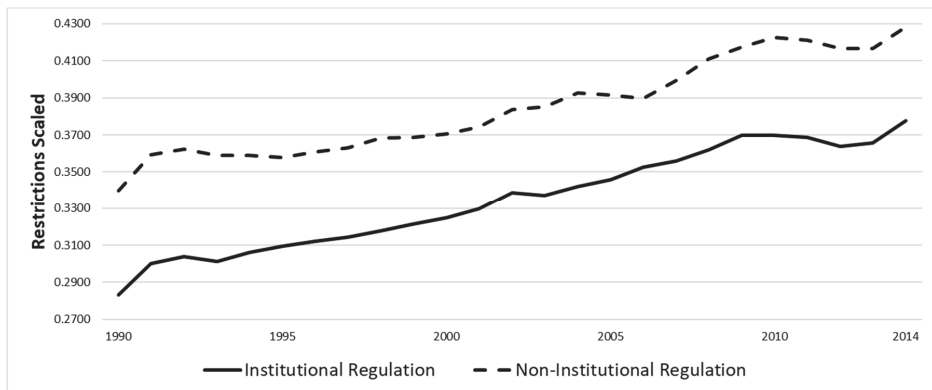


Figure 2. Restrictions on All Religions, 1990–2014. Significance (*t*-test) between institutional and non-institutional, <0.001 in 1990–2014. Significance (*t*-test) between institutional in 1990 and institutional <0.05 in 1991, 1994, <0.01 in 1995–1996, <0.001 in 1992, 1997–2014. Significance (*t*-test) between institutional in 1990 and institutional <0.05 in 2001, <0.01 in 2002, 2004–2007, <0.001 in 2003, 2008–2014.

This has several implications. First, IRR occurs in the context of a wider variety of violations of religious freedom. Second, IRR is slightly less common than other violations of religious freedom against majority religions. Third, the rise in IRR demonstrates that it is an issue that is of increasing importance.

7. Conclusions

We have contended that an individual's religious freedom is intimately tied to the freedom of religious institutions. Because religious institutions authorize and supervise rites of passage, support required communal worship and prayer, and dispense other highly valued religious goods, ensuring individual freedoms requires freedoms for the institutions. The complex and varied relationships that the state holds with religious institutions, however, often compromise the freedoms that these institutions receive.

Our review of the Religion and State round 3 data collection from 1990 to 2014 has uncovered several important trends and relationships for IRFs. First, both restrictions on institutional religious freedoms (IRF) and individual religious freedoms are on the rise. The findings suggest that restrictions on religious institutions inevitably have a significant influence on individual freedoms, with the two trends rising together over time. For IRF, the rise in restrictions increased for nearly all of the 35 measures included in RAS3. We found that 17 of the 19 measures on IRD increased from 1990 to 2014, and 18 of the 19 measures on IRR increased.

³³ Both IRR and non-institutional religious regulation are divided by the number of components in the index, respectively 19 and 10. This creates a score which is the mean score for the individual items in each index.

Second, despite rising in unison, we found interesting differences in the trends for institutional and individual religious freedoms. When dealing with minority religious institutions, restrictions on IRF are higher than those against individuals. However, when dealing with the majority religions, restrictions on individual freedoms are more common and severe than restrictions on IRF.

One potential explanation for this dynamic is that governments differ in how they attempt to control majority and minority religions. Whereas most countries have some form of connection with the majority religious institutions, and typically provide funding for these institutions, governments are far less likely to support minority religions. While in some cases government backing for the majority religion is due to a genuine desire to support, in others the motives are more clearly tied to controlling and limiting the majority religion. That is, supporting a religious institution is one of the most effective means of controlling it. (Fox 2015, pp. 65–67, 2019) In either case, this support lowers the desire or need to directly restrict the IRF of majority religious institutions. For minority religions, however, where government support is less prevalent, the withdrawing or increasing of institutional support is not an option. Instead, when the institutions of minority religions are seen as a potential threat to a regime, religion or culture, the response is to limit or eliminate the IRF of minority religions. (Koesel 2014; Sarkissian 2015).

In a larger view, this focus on IRF provides several insights that add perspective to the general topic of religious freedom. First, it highlights that the freedoms given or not given to religious institutions greatly impact upon the individual. Second, we demonstrate that the patterns of restrictions on IRF and individual religious freedoms differ. Discovering the reasons for these differing patterns is an important agenda for future research. Third, much of the existing research on religious freedom takes the perspective of individual freedoms and rights. Without in any way downplaying the importance of individual freedoms, our findings demonstrate that IRF requires more attention.

Author Contributions: Conceptualization, J.F. and R.F.; Data curation, J.F.; Formal analysis, J.F.; Investigation, J.F.; Methodology, J.F.; Writing—original draft, J.F. and R.F. Both authors have read and agreed to the published version of the manuscript.

Funding: The Israel Science Foundation (Grant 23/14), The German-Israel Foundation (Grant 1291-119.4/2015) and the John Templeton Foundation.

Data Availability Statement: The Religion and State Dataset is available at www.religionandstate.org.

Conflicts of Interest: The authors declare no conflict of interest.

Appendix A

Table A1. Types of Institutional Discrimination against Religious Minorities, 1990–2014.

Restrictions on/Government Actions	All Countries			By Country Grouping in 2014 ³⁴						
	1990	2014	EWNOCMD	Orthodox	Muslim	Communist	Buddhist	The Rest Democracies	The Rest Non-Democracies	
Worship & Gatherings										
Build, lease, or repair places of worship	41.5%	51.9%	60.6%	100.0%	74.5%	80.0%	83.3%	9.1%	23.7%	
Registration	39.9%	44.8%	57.6%	100.0%	33.3%	60.0%	33.3%	26.3%	31.6%	
Access to places of worship	21.9%	32.8%	15.2%	84.6%	43.6%	80.0%	50.0%	21.2%	15.8%	
Public observance	27.9%	33.9%	9.1%	53.8%	60.0%	80.0%	50.0%	9.1%	23.7%	
Private observance	11.5%	18.6%	0.0%	32.7%	38.5%	80.0%	0.0%	3.0%	15.8%	
Formal organizations	19.1%	37.9%	15.2%	30.8%	41.8%	100.0%	16.7%	15.2%	21.1%	
Anti-cult/sect laws	12.0%	21.3%	30.3%	38.5%	18.2%	60.0%	0.0%	15.2%	15.8%	
Religious Rites										
Religious marriage and divorce laws	12.6%	12.0%	0.0%	15.4%	27.3%	40.0%	33.3%	3.0%	0.0%	
Religious funeral	17.5%	21.3%	21.2%	53.8%	30.9%	60.0%	16.7%	6.1%	5.3%	
Circumcision or rites of passage	0.0%	0.5%	3.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	
Related Institutional Operations										
Religious schools/religious education	15.3%	23.0%	18.2%	46.2%	36.1%	80.0%	50.0%	3.0%	5.3%	
Import religious publications	20.8%	21.3%	0.0%	30.8%	40.9%	80.0%	33.3%	0.0%	2.6%	
Religious materials	6.6%	8.1%	0.0%	38.5%	32.7%	80.0%	0.0%	3.0%	23.7%	
Write/publish/disseminate rel. publications	20.8%	26.2%	6.1%	46.2%	54.5%	60.0%	50.0%	0.0%	7.9%	
Clergy & Institutional Voice										
Censorship/access to clergy	15.8%	18.6%	18.2%	38.5%	23.6%	100.0%	50.0%	3.0%	3.6%	
Clergy access to military	19.1%	21.9%	45.5%	53.8%	14.5%	40.0%	16.7%	15.2%	5.3%	
Clergy access to hospitals	21.9%	24.0%	39.4%	69.2%	16.4%	20.0%	16.7%	21.2%	10.5%	
Clergy access to schools	13.1%	15.3%	39.4%	53.8%	7.3%	20.0%	16.7%	3.0%	2.6%	
Arrest/detention/harassment	21.3%	34.4%	21.2%	53.8%	56.4%	100.0%	50.0%	9.1%	18.4%	
Mean scaled for comparison	0.33	0.43	0.31	0.91	0.65	1.24	0.54	0.13	0.17	

³⁴ See Fox (2020) for more information on the development of the seven major categories based on world region and majority religion.

Table A2. Types of Non-Institutional Discrimination against Religious Minorities, 1990–2014.

Restrictions on/Government Actions	All Countries									
	By Country Grouping in 2014									
	1990	2014	EWNOCMD	Orthodox	Muslim	Communist	Buddhist	The Rest Democracies	The Rest Non-Democracies	
Forced observance of maj. religion	14.2%	19.7%	0.0%	7.7%	4.18%	40.0%	66.7%	18.2%	5.3%	
Religious publications for personal use	8.7%	13.7%	0.0%	15.4%	36.4%	40.0%	0.0%	0.0%	2.6%	
Dietary laws	3.3%	4.4%	15.2%	0.0%	3.6%	0.0%	0.0%	0.0%	2.6%	
Religious symbols	9.8%	16.9%	33.3%	30.8%	14.5%	20.0%	16.7%	6.1%	10.5%	
Conversion away from the majority religion	14.2%	15.3%	0.0%	0.0%	45.5%	20.0%	16.7%	3.0%	0.0%	
Forced renunciation of conversions	7.1%	8.7%	0.0%	0.0%	17.2%	60.0%	0.0%	6.1%	2.6%	
Forced conversion	3.3%	6.6%	0.0%	0.0%	12.7%	40.0%	16.7%	3.0%	2.6%	
Conversion campaigns	12.0%	13.7%	0.0%	7.7%	30.9%	80.0%	16.7%	6.1%	0.0%	
Proselytizing by residents to majority rel.	29.5%	33.9%	6.1%	61.5%	67.3%	100.0%	66.7%	6.1%	10.5%	
Proselytizing by residents to minority rel.	13.3%	21.3%	6.1%	61.5%	37.3%	80.0%	66.7%	6.1%	10.5%	
Foreign proselytizers	4.3%	18.1%	0.0%	23.2%	99.1%	40.0%	100.0%	24.1%	14.7%	
Foreign proselytizers in the maj. religion	21.9%	24.6%	12.1%	23.2%	99.1%	40.0%	53.0%	9.1%	7.9%	
Willful failure to protect from violence	13.7%	20.8%	3.0%	76.9%	32.7%	0.0%	33.3%	12.1%	7.9%	
Surveillance	15.8%	29.0%	36.4%	53.8%	34.5%	80.0%	33.3%	3.0%	13.2%	
Child custody granted based on religion	12.6%	15.3%	3.0%	7.7%	45.5%	0.0%	0.0%	3.0%	0.0%	
Anti-minority propaganda	23.0%	27.3%	15.2%	76.9%	49.1%	80.0%	16.7%	3.0%	7.9%	
Other forms of discrimination	23.5%	34.4%	18.2%	53.8%	45.5%	80.0%	16.7%	26.3%	28.9%	
At least one type	67.2%	77.6%	69.7%	100.0%	87.3%	100.0%	100.0%	66.7%	65.8%	
Mean	4.97	6.22	2.40	7.62	12.33	18.20	8.17	1.88	2.13	
Mean scaled for comparison	0.29	0.37	0.14	0.44	0.73	1.07	0.48	0.11	0.12	

Table A3. Restrictions on All Religious Institutions, 1990–2014.

Restrictions on/Government Actions	All Countries				By Country Grouping in 2014				
	1990	2014	EWNOCMD	Orthodox	Muslim	Communist	Buddhist	The Rest Democracies	The Rest Non-Democracies
General Requirements and Restrictions									
Formal religious organizations	12.0%	16.2%	3.0%	7.7%	38.2%	80%	16.7%	3.0%	2.6%
Government influences religious orgs.	17.5%	21.3%	6.1%	23.1%	49.1%	80.0%	33.3%	3.0%	0.0%
Government passes/approves laws governing state religion	14.2%	13.1%	9.1%	7.7%	30.9%	20.0%	0.0%	30%	2.6%
Restrictions/harassment of non-state sponsored/recognized religious format	15.3%	28.4%	0.0%	61.5%	63.6%	40.0%	16.7%	6.1%	10.5%
State ownership of some rel. property	25.7%	26.8%	15.2%	53.8%	43.6%	40.0%	33.3%	12.1%	13.2%
Worship and Gatherings									
Public observance of religious practices	8.2%	12.6%	9.1%	7.7%	14.5%	80.0%	0.0%	9.1%	10.5%
Rel. activities outside recognized facilities	9.5%	16.4%	0.0%	30.8%	21.8%	100.0%	16.7%	6.1%	15.8%
Religious public gatherings not placed on other public gatherings	4.4%	6.0%	3.0%	0.0%	5.5%	40.0%	16.7%	3.0%	7.9%
Access to places of worship	6.6%	10.4%	6.1%	23.1%	16.4%	60.0%	0.0%	3.0%	2.6%
Foreign religious orgs. require sponsors	6.6%	8.7%	0.0%	23.1%	9.1%	20.0%	0.0%	12.1%	7.9%
Related Institutional Activities									
Religious trade/civil associations	6.0%	6.6%	3.0%	7.7%	7.3%	20.0%	16.7%	3.0%	7.9%
Religious political parties	23.5%	37.2%	3.0%	46.2%	54.5%	40.0%	66.7%	24.2%	44.7%
Publication/dissemination of written religious material	10.9%	12.0%	0.0%	7.7%	23.6%	100.0%	16.7%	0.0%	5.3%
Clergy & Institutional Voice									
Sermons by clergy	21.3%	27.3%	3.0%	7.7%	65.5%	80.0%	33.3%	3.0%	13.2%
Political activity by clergy/rel. institutions	23.5%	34.4%	3.0%	46.2%	52.7%	60.0%	83.3%	15.2%	36.8%
Arrest/detention/harassment of religious figures/officials/rel. party members	10.9%	14.8%	0.0%	0.0%	36.4%	80.0%	16.7%	3.0%	2.6%
Heads of religious orgs. must be citizens	7.7%	9.3%	15.2%	30.8%	5.5%	40.0%	0.0%	6.1%	2.6%
All practicing clergy must be citizens	2.2%	4.8%	0.0%	7.7%	3.6%	40.0%	0.0%	0.0%	5.3%
Government appoints clergy	25.7%	28.4%	5.2%	30.8%	61.8%	80.0%	16.7%	3.0%	7.9%
At least one type	66.1%	76.0%	57.6%	100.0%	98.2%	100.0%	83.3%	45.5%	73.7%
Mean	3.54	7.17	1.55	7.92	13.55	26.60	8.67	2.30	4.02
Mean scaled for comparison	0.29	0.38	0.08	0.41	0.71	1.40	0.46	0.12	0.21

Table A4. Non-Institutional Restriction on All Religions, 1990–2014.

Restrictions on/Government Actions	All Countries				By Country Grouping in 2014				
	1990	2014	EWNOCMD	Orthodox	Muslim	Communist	Buddhist	The Rest Democracies	The Rest Non-Democracies
Clergy holding political office	12.6%	16.2%	3.0%	7.7%	80.0%	66.7%	27.3%	18.4%	15.8%
People are arrested for religious activities	3.8%	3.8%	0.0%	0.0%	5.5%	80.0%	0.0%	0.0%	0.0%
Control of religious symbols	7.1%	11.5%	5.2%	0.0%	23.6%	60.0%	0.0%	0.0%	0.0%
Conscientious objectors not allowed alternative service and are prosecuted	17.5%	10.4%	0.0%	15.4%	20.0%	40.0%	16.7%	3.0%	5.3%
Public religious hate speech	7.1%	8.7%	0.0%	0.0%	18.2%	80.0%	16.7%	3.0%	0.0%
Religious-based hate speech	37.2%	53.0%	87.9%	84.6%	47.3%	40.0%	50.0%	24.2%	47.4%
Control/influence rel. education: public schools	25.7%	26.8%	18.2%	23.1%	50.9%	0.0%	16.7%	24.2%	5.3%
Control/influence rel. education: in private	18.0%	23.5%	9.1%	15.4%	50.9%	80.0%	33.3%	9.1%	2.6%
Control/influence rel. education: universities	9.3%	9.3%	0.0%	0.0%	27.3%	40.0%	0.0%	0.0%	0.0%
Other religious restrictions	30.6%	43.7%	27.3%	53.8%	56.4%	100.0%	33.3%	33.3%	39.5%
At least one type	67.0%	86.9%	90.9%	100.0%	94.5%	100.0%	83.3%	84.8%	68.4%
Mean	3.48	4.28	3.09	3.69	6.93	13.20	5.00	2.30	2.13
Mean scaled for comparison	0.35	0.44	0.31	0.37	0.69	1.32	0.50	0.23	0.21

References

- Almond, Gabriel, R. Scott Appleby, and Emmanuel Sivan. 2003. *Strong Religion: The Rise of Fundamentalism around the World*. Chicago: University of Chicago Press.
- Appleby, R. Scott. 2000. *The Ambivalence of the Sacred: Religion, Violence, and Reconciliation*. New York: Rowman and Littlefield.
- Auslin, Michael R. 2019a. "The Empire Strikes Back." Hoover Digest No. 2 (Spring): 109–13. Available online: <https://www.hoover.org/research/empire-strikes-back-1> (accessed on 17 April 2020).
- Auslin, Michael R. 2019b. "China's war on Islam." Spectator (May 1st). Available online: <https://spectator.us/china-islam-uighurs/> (accessed on 17 April 2020).
- Balci, Bayram, and Altay Goyushov. 2014. Azerbaijan. In *Yearbook of Muslims in Europe*. Edited by Jorgan Nielsen, Samim Akonul, Ahmet Alibasic and Egdunas Racijs. Leiden: Brill, vol. 6, pp. 67–82.
- Cesari, Jocelyne. 2013. *Why the West Fears Islam: An Exploration of Islam in Liberal Democracies*. New York: Palgrave Macmillan.
- Coleman, James S. 1986. Social Theory, Social Research, and a Theory of Action. *American Journal of Sociology* 91: 1309–35. [CrossRef]
- d'Appollonia, Chebel. 2015. *Ariane Migrant Mobilization and Securitization in the US and Europe: How Does It Feel to be A Threat?* New York: Palgrave-Macmillan.
- Djupe, Paul A., and Jacob R. Neihsel. 2018. Political mobilization in American Congregations: A Religious Economies Perspective. *Politics & Religion*. [CrossRef]
- Emerson, Richard M. 1962. Power-Dependence Relations. *American Sociological Review* 27: 31–41. [CrossRef]
- Finke, Roger. 1990. Religious Deregulation: Origins and Consequences. *Journal of Church and State* 32: 609–26. [CrossRef]
- Finke, Roger. 2013. Origins and Consequences of Religious Restrictions: A Global Overview. *Sociology of Religion* 74: 1–17. [CrossRef] [PubMed]
- Finke, Roger, and Jaime Harris. 2012. Wars and Rumors of Wars: Explaining Religiously Motivated Violence. In *Religion, Politics, Society and the State*. Edited by Jonathan Fox. New York: Oxford University Press.
- Finke, Roger, Dane R. Mataic, and Jonathan Fox. 2017. Assessing the Impact of Religious Registration. *Journal for the Scientific Study of Religion* 56: 720–36. [CrossRef]
- Fox, Jonathan, and Lev Topor. 2021. *Why Do People Discriminate Against Jews?* New York: Oxford University Press.
- Fox, Jonathan. 2008. *A World Survey of Religion and the State*. New York: Cambridge University Press.
- Fox, Jonathan. 2011. Building Composite Measures of Religion and State. *Interdisciplinary Journal of Research on Religion* 7: 1–39.
- Fox, Jonathan. 2015. *Political Secularism, Religion, and the State: A Time Series Analysis of Worldwide Data*. New York: Cambridge University Press.
- Fox, Jonathan. 2019. *The Correlates of Religion and State*. London: Routledge.
- Fox, Jonathan. 2020. *Thou Shalt Have No Other Gods before Me: Why Governments Discriminate Against Religious Minorities*. New York: Cambridge University Press.
- Fox, Jonathan, Roger Finke, and Dane R. Mataic. 2018. New Data and Measures on Societal Discrimination and Religious Minorities. *Interdisciplinary Journal of Research on Religion* 14: 1–37.
- Fox, Jonathan, Roger Finke, and Marie Eisenstein. 2019. Examining the Causes of Government-based Discrimination against Religious Minorities in Western Democracies: Societal-level Discrimination and Securitization. *Comparative European Politics* 17: 885–909. [CrossRef]
- Froese, Paul. 2008. *The Great Secularization Experiment: What Soviet Communism Taught Us about Religion in the Modern Era*. Berkeley: University of California Press.
- Gill, Anthony. 2008. *The Political Origins of Religious Liberty*. New York: Cambridge University Press.
- Grim, Brian J., and Roger Finke. 2007. Religious Persecution in Cross-National Context: Clashing Civilizations or Regulated Religious Economies? *American Sociological Review* 72: 633–58. [CrossRef]
- Grim, Brian J., and Roger Finke. 2011. *The Price of Freedom Denied*. New York: Cambridge University Press.
- Koesel, Karrie J. 2014. *Religion and Authoritarianism: Cooperation, Conflict, and the Consequences*. New York: Cambridge University Press.
- Kuru, Ahmet T. 2009. *Secularism and State Policies toward Religion*. New York: Cambridge University Press.
- Lausten, Carsten B., and Ole Wæver. 2003. In Defense of Religion: Sacred Referent Objects for Securitization. In *Religion in International Relations: The Return from Exile*. Edited by Fabio Petito and Pavlos Hatzopoulos. Palgrave: Macmillan.
- Philpott, Daniel. 2019. *Religious Freedom in Islam: The Fate of a Universal human Right in the Muslim World Today*. New York: Oxford University Press.
- Richardson, James T., and Bryan Edelman. 2004. Cult Controversies and Legal Developments Concerning New Religious Movements in Japan and China. In *Regulating Religion: Case Studies from Around the Globe*. Edited by James T. Richardson. New York: Kluwer Academic/Plenum Publishers, pp. 359–80.
- Sarkisian, Ani. 2015. *The Varieties of Religious Repression: Why Governments Restrict Religion*. New York: Oxford University Press.
- Scolnicov, Anat. 2011. *The Right to Religious Freedom in International Law: Between Group Rights and Individual Rights*. New York: Routledge.
- Stark, Rodney, and Roger Finke. 2000. *Acts of Faith: Explaining the Human Side of Religion*. Berkeley: University of California Press.
- Thomas, George M. 2001. Religions in Global Civil Society. *Sociology of Religion* 62: 515–33. [CrossRef]

- Wald, Kenneth D., Adam L. Silverman, and Kevin S. Friday. 2005. Making Sense of Religion in Political Life. *Annual Review of Political Science* 8: 121–43. [CrossRef]
- Yang, Fenggang. 2006. The Red, Black, and Gray Markets of Religion in China. *The Sociological Quarterly* 47: 93–122. [CrossRef]
- Yang, Fenggang. 2012. *Religion in China: Survival and Revival under Communist Rule*. New York: Oxford University Press.
- Yang, Fenggang. 2019. Will Chinese House Churches Survive the Latest Government Crackdown? *Christianity Today*. December 31. Available online: <https://www.christianitytoday.com/ct/2019/december-web-only/chinese-house-churches-survive-government-crackdown.html> (accessed on 17 April 2020).
- Zhang, Lihui. 2020. Religious Freedom in an Age of Globalization, International Law and Human Rights Activism. Ph.D. dissertation, University of Oklahoma, Norman, OK, USA.

Article

The Causes of Societal Discrimination against Religious Minorities in Christian-Majority Countries

Jonathan Fox ^{1,*}, Roger Finke ² and Dane R. Mataic ³¹ Department of Political Studies, Bar-Ilan University, Ramat Gan 5290002, Israel² Department of Sociology and Criminology, Pennsylvania State University, University Park, PA 16802, USA; rfinke@psu.edu³ Sociology and Anthropology Department, North Dakota State University, Fargo, ND 58102, USA; dane.mataic@ndsu.edu

* Correspondence: Jonathan.Fox@biu.ac.il

Abstract: Using the Religion and State-Minorities and WVS datasets, this study examined the impact of religiosity in Christian-majority countries on societal religious discrimination (i.e., discrimination by non-state actors) against religious minorities. We found that increased levels of religious activity and commitment in a country lead to less discrimination against Muslim and Jewish religious minorities but more discrimination against Christian minorities. We offered two explanations for this complex relationship. First, when Christian-majority nations hold high levels of religiosity, other Abrahamic religions are potential allies in the fight against secularism. Second, in religiously active Christian-majority nations, the majority religion views Christian minorities (rather than Jews and Muslims) as an unwanted competitive threat because denomination switching is more common within the same religious tradition.

Citation: Fox, Jonathan, Roger Finke, and Dane R. Mataic. 2021. The Causes of Societal Discrimination against Religious Minorities in Christian-Majority Countries.

Religions 12: 611. <https://doi.org/10.3390/rel12080611>

Academic Editors: Timothy Shah and Nathan A. Berkeley

Received: 8 July 2021

Accepted: 2 August 2021

Published: 6 August 2021

Publisher's Note: MDPI stays neutral with regard to jurisdictional claims in published maps and institutional affiliations.

Keywords: religion; minorities; discrimination

Past research has established that discrimination against religious minorities often comes from non-state actors (Grim and Finke 2011; Fox 2020).¹ Yet, most cross-country studies have focused on the causes of discrimination by governments (e.g., Fox 2015, 2016; Finke and Martin 2014; Finke et al. 2017a; Tol and Akbaba 2014) or a combination of societal and government discrimination but only at the country-level (Grim and Finke 2011). These studies have failed to explore how the level of religiosity in the nation is related to societal religious discrimination (SRD) and how the predictors of SRD might vary by the religious minority being targeted. The few studies that link religiosity and discrimination tend to be survey-based studies that focus on narrow aspects of government-based discrimination such as restrictions on Muslims wearing head coverings in Western Europe (Helbling 2014) or focus on government-based discrimination and use religiosity as the dependent variable (Fox and Tabory 2008). The only study that used the minority-specific SRD variable used in this study as a dependent variable did not use religiosity as an independent variable (Fox 2020).

This study examines the impact of religiosity on SRD in Christian-majority countries against all religious minorities that meet a 0.2% population threshold in a country. We found that religiosity in a country leads to less discrimination against Muslim and Jewish religious minorities but more discrimination against Christian and other (not Christian, Muslim, or Jewish) minorities within Christian-majority countries. We argue that this complex relationship is based on two factors. First, in an age where secularism is challenging religion, the Christian majority views other Abrahamic religions as potential allies. Second, because denomination switching is more common within a religion than religion switching across world religions, Christian minorities (rather than Jews and Muslims) are an unwanted competitive threat and therefore are more likely to face discrimination in nations with high levels of religiosity.



Copyright: © 2021 by the authors. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

This paper proceeds as follows. First, we examine the existing literature as it applies to the link between religiosity and SRD. Second, we examine the impact of religiosity on SRD in 56 Christian-majority countries against religious minorities using the Religion and State-Minorities Round 3 (RASM3) minority-specific dataset. Finally, we discuss the implications of our findings.

1. Religiosity as a Cause of Discrimination

Global SRD against religious minorities by a majority religious group is ever-present, yet the explanations are limited. We propose that both the level of religiosity in a nation and the relationship a religious minority holds with the Christian majority are important predictors of SRD against religious minorities. Religiosity refers to the feelings and actions of the nation's population that demonstrate a strong level of commitment to their religious group. The relationship a religious minority holds with the Christian majority will highlight both the shared and conflicting interests of the religious groups. To understand these complex relationships, we begin by exploring two overlapping avenues of influence: (1) ideology, identity, beliefs, doctrine, and theology and (2) power politics and elite interests.

1.1. Ideology, Identity, Beliefs, Doctrine, and Theology

Religions, especially monotheistic religions, usually incorporate exclusive truth claims, typically based on divine revelation. These monopolistic truth claims can accept no contradictions or challenges to that truth. This can motivate feelings of anger, animosity, resentment, enmity, and even fear toward members of other religions. As Stark (2003, p. 32) put it, "those who believe there is only One True God are offended by worship directed toward other Gods." He argued that the three major monotheistic faiths, Judaism, Christianity, and Islam, are particularly intolerant of competing religions. Many of these religions' adherents see these faiths as the only path to salvation. Those who hold this belief see allowing nonbelievers to deny the "truth" as allowing them to be damned for eternity. From this perspective, using coercion to alter their beliefs can be perceived as benevolent (Stark 2001, 2003).

Variations on this argument are present across social science disciplines. Sociologists Grim and Finke (2011, p. 46) argued that "exclusive religious beliefs provide motives for promoting the 'one true faith.' To the extent that religious beliefs are taken seriously and the dominant religion is held as true, all new religions are heretical at best. Thus, established religions will view the new religions as both dangerous and wrong." From a comparative politics perspective, Jelen and Wilcox (1990, p. 69) argued that "religion is often thought to inhibit the development of the tolerance for unorthodox beliefs and practices . . . Religion is accused of inculcating ultimate values in its adherents—values which do not lend themselves to compromise or accommodation." Laustsen and Waever (2000, p. 719) who focused on international relations argued that "religion deals with the constitution of being as such. Hence, one cannot be pragmatic on concerns challenging this being." A large body of survey-based studies across this literature link religiosity to intolerance.²

The political psychology literature focuses on in-group, out-group, and identity dynamics to explain religiosity's link to intolerance. In essence, those who are more religious have stronger identities and are accordingly less tolerant of out-groups. However, these studies find mixed results, with some finding a connection between religiosity and intolerance or violence toward religious out-groups (Canetti et al. 2010; Ben-Nun Bloom et al. 2019; Karpov 2002) and others finding no connection (Eisenstein 2008). Some studies find that religiosity can have a differing impact under different circumstances. For example, Hoffman and Nugent (2015) found that in Lebanon communal prayer makes people who belong to combatant groups more likely to support arming political parties but makes people in noncombatant groups more likely to oppose militarization.

Religion and distinct doctrines are also clearly linked to multiple types of identities that have an impact on political and social behavior, particularly among national identities (Frieland 2001, pp. 129–30; Smith 1999, 2000). In addition, it is well established that dominant cultures often seek to protect their culture from outside influence (Gurr 1993, 2000; Horowitz 1985). This is especially applicable to discrimination against minorities who are seen as foreign or non-indigenous.

Tajfel and Turner (1982) classically argued that distinctive group identities triggering in-group favoritism is sufficient to cause conflict. McDermott (2009) argued that religious identity is used to stereotype others often as a heuristic shortcut³. The dynamics are used to explain the link between religious identity and a number of relevant factors, including conflict (Alexander 2017; Basedau et al. 2011, 2014; Kose and Ozcan 2016; Lai 2006; Neuberg et al. 2014; Pearce 2005), anti-immigrant sentiment (Ben-Nun Bloom et al. 2015; Bohman and Hjerm 2014), political compromise and tolerance (Cohen-Zada et al. 2016; Djupe and Calfino 2012; Eisenstein 2008; Milligan et al. 2014), religion–state arrangements (Driessen 2014a, 2014b), influences for specific political issues such as support for Turkish ascension to the European Union (De Vreese et al. 2009), and religious integration in Europe (Nelsen et al. 2011).

Grzymala-Busse (2012) argued that religious identities are particularly powerful in this respect because they are unlike most other types of identity in three respects. First, they “make transnational claims across enormous populations: they are probably the largest unit to which individuals claim loyalty” (Grzymala-Busse 2012, p. 423). Second, religion can encompass all elements of one’s life. Third, it is more resistant to modern processes that can undermine other identities. As religious identities are strengthened through practice and view of importance, so too is the possibility for heightened levels of discrimination and conflict between groups.⁴

All of this suggests that religion can sharpen group boundaries and heighten group identities that result in majority religions discriminating against religious minorities. Thus, our first hypothesis is:

Hypothesis 1 (H1). *All other things being equal, SRD will be higher in countries with more religious populations.*

1.2. Power Politics and Elite Interests

A second explanation is that the “power politics” impetus for religious discrimination is based on the rational choice approach. Gill (2008) focused on why governments might discriminate against religious minorities arguing that religious institutions and politicians follow their rational interests. Majority religious institutions tend to seek religious hegemony. That is, they seek to use their own societal influences as well as their government to maintain a religious monopoly. While their motivations likely include ideology, they also include institutional motivations. Religious monopolies provide more congregants, more funds, and more influence. In addition, they can involve government enforcement of religious precepts. Thus, monopolies strengthen religious institutions and the power of those who control them.

Accordingly, Gill (2008, p. 45) argued that “hegemonic religions will prefer high levels of government regulation . . . of minority religions.” In fact, most who address the topic argue that religious monopolies are not possible without repressing religious minorities including alternate institutions of the majority religion (Casanova 2009; Froese 2004, p. 36; Gill 2005, p. 13; 2008, p. 43; Grim and Finke 2011, p. 70; Stark and Bainbridge 1985, p. 508; Stark and Finke 2000, p. 199; Stark and Iannaccone 1994, p. 232).

Gill (2008) argued that politicians can benefit from this monopolistic arrangement. In return for government support, religious institutions and clergy convey legitimacy upon the government which makes governing less expensive because governments considered widely legitimate require fewer resources to maintain power. More specifically, legitimacy reduces costs for repressing dissent. Religion can also increase the populations’ morality,

which can reduce law enforcement costs. In addition, religious institutions often provide social goods that the government might otherwise need to provide such as charity and welfare. All of this makes supporting religion a worthwhile investment.

There are additional reasons governments might want to repress minority religions. Religion is often the basis for opposition and political mobilization (Wald et al. 2005). Supporting formal organizations, as well as social and political movements, religion often has the capacity to mobilize popular support and social action, actions that can openly challenge the state and the religious majority (Finke 2013). For this reason, governments, especially autocratic governments, seek to repress any religion outside of their control (Sarkissian 2015).

While this body of theory focuses on why governments discriminate, it is applicable to SRD for several reasons. First, in most countries, religious institutions are societal institutions and have significant influence on their congregations. There is no shortage of anecdotes of clergy across religions instigating negative societal acts toward minority religions. In Sri Lanka, for example, Buddhist priests instigated deadly riots against Tamil Hindus that initiated the country's violent civil war (Little 1994) and more recently instigated violence against Christians who they see as seeking to convert Buddhists.⁵

Similarly, in Greece, Greek Orthodox clergy and institutions regularly engage in activities that can be considered SRD against religious minorities. Priests often verbally and physically harass proselytizers. For example, many Orthodox bishops distribute lists of minority religious practices that they consider "sacrilegious" and harmful to Orthodox worshippers and often ask their congregants to avoid members of groups such as Evangelical Protestants, Jehovah's Witnesses, Mormons, and the Bahai. The Church actively obstructs permit requests by non-Orthodox groups to open houses of prayer. Arrest and prosecution for operating illegal houses of worship are common in Greece. The Church publicly opposes initiatives to allow the cremation of the dead, which is central to burial rituals for several religions. The Orthodox Church in Cyprus similarly blocks cremation facilities⁶, and similar anti-religious-minority activities by Orthodox priests and institutions occur in other Orthodox-majority countries.⁷ While the motivations for these acts certainly include theological motivations, they also include the desire to maintain a religious monopoly.

While these two potential religious causes, ideology and power dynamics, of discrimination are not mutually exclusive, they have different implications for which religions are more likely to be subject to discrimination. Religious ideologies target those religions considered most theologically objectionable, while religious power politics target minorities that demographically or politically challenge religious monopolies. Both of these motivations for targeting are more likely in states more closely associated with a single religion. This suggests the following hypotheses:

Hypothesis 2 (H2). *SRD will be higher in countries that more strongly support a single religion.*

Hypothesis 3 (H3). *SRD will be higher as the size of the religious minority increases.*

It is also likely that the motives for discriminating against other religions vary depending on the religious majority group within a country. Conversely, under some conditions, religious majority groups will tolerate minority groups even if they meet the above conditions for expected causes of discrimination. Below we review two of these motives for Christian-majority countries and argue that the pattern for discrimination and tolerance varies depending on each minority group within the country.

2. Tolerance for Some and Discrimination for Others in Christian-Majority Countries

Not all minority religious groups, despite their classification as minorities, are treated as equal within the same country. Fox (2020) demonstrated that both societal and government-based discrimination directed at each minority group is dependent on factors beyond status as a minority. Building on our above arguments, we demonstrate that under some condi-

tions, religious minorities are accepted at best and tolerated at worst, while other minority groups experience heightened levels of SRD under the same conditions.

We focus on social and political factors that explain under what circumstances religiosity and religious demographics might lead to increased tolerance of some religious minorities in Christian-majority countries⁸, while the same circumstances lead to increased discrimination for others. These can be separated into two factors, largely mirroring the importance of ideology and power dynamics as both explanations of tolerance and SRD.

2.1. Tolerance and Discrimination by Ideology in Christian-Majority Countries

Appleby (2000), Abu-Nimer (2001), and Gopin (2000, 2002) argued that religious belief systems can support both violence and intolerance, on one hand, and peace and tolerance on the other. They focused on how specific theologies can be used to support peace and tolerance as opposed to violence and intolerance. This potential for both is evident in the two Christian churches often holding formal ties with the state: the Catholic Church and the Eastern Orthodox Churches.

Although the Catholic Church has a long history of close ties with the state, and intolerance of competing religions that is often based on theological justifications, the Church has served as an advocate for religious freedoms over the past century.⁹ Rather than challenging the temporal authority of the state, the theological teachings of the Catholic Church have increasingly challenged states over human dignity and human rights, with papal encyclicals increasing reliance on “human rights language in social encyclicals” (Hehir 2010, p. 116). Pope John XXIII’s (1963) *Pacem In Terris* encyclical (Peace on Earth), for example, emphasized dignity and equality for all and encouraged Catholics to “assist non-Christians and non-Catholics in political and social aspects.”

Recent scholarship has highlighted the consequences of these documents, demonstrating that the Church’s social teachings were influential in Christian Democratic parties that arose in the late 1940s across Europe (Philpott 2001; Nelsen and Guth 2015). Others argue that the influence of the Catholic Church’s social teachings has been global (Appleby 2000). European survey-based studies have also found that religious Christians are more supportive of the religious rights of minorities than are secular Christians (Carol et al. 2015), are less likely to oppose head coverings (Helbling 2014; van der Noll et al. 2018), and that religious Europeans are less negative toward Muslim immigrants than non-religious Europeans (Bohman and Hjerm 2014). This body of work suggests that theological teachings can increase a Christian majority’s tolerance toward religious minority groups.

Tolerance, however, is not always the case. For example, the teachings of the Christian Orthodox churches on the tolerance and freedom of other religions remain more clouded and less consistent (McGuckin 2010). Frequently organized around one country and culture, they often hold to a “cultural canonical territory” that is resistant to the intrusion of other religions. Indeed, intra-Christian challenges are often faced with as much resistance, or more, than the challenges of other world religions (Ferrari 2010). Formal theological statements on the toleration and freedoms of other religions are largely lacking. Although the Greek Orthodox Archdiocese of North and South America did make strong pronouncements at their 1980 Clergy–Laity Congress supporting freedom of religious expression that is free of government interference, formal support and theological justifications for such freedoms have been lacking in countries where the Orthodox Church holds an alliance with the state (Witte 2010).¹⁰ This leads to our fourth hypothesis:

Hypothesis 4 (H4). *SRD will be higher in countries holding a Christian Orthodox majority.*

2.2. Tolerance and Discrimination by Power Politics

We posit that power politics should cause different relationships between religiosity and SRD depending on the majority and minority religious groups in conflict. Power politics is to a great extent about *perceived* threats and *perceived* allies. It can also involve

crosscutting influences and motivations. In Christian-majority countries, we argue that two crosscutting dynamics and motivations are in play, both involving perceived threats.

First, the secularism of the state and the culture can be perceived as a threat against all religions. In more religious societies, minority religions can be seen as potential allies because religious and secular groups are competing to influence politics and society. For example, disputes over abortion and the role of women in society can unite disparate religions in their opposition to secular groups. Given this, it is possible for a majority Christian group to view religious minorities, such as Jews and Muslims, as potential allies in this secular–religious competition. Tolerance can be a matter of convenience when forming an alliance against secularism.

Second, and closely related to the ideological argument above, Stark and Finke (2000) argued that religions with interrelated theological traditions are in direct competition with each other for adherents. Under these circumstances, SRD might be directed at religious minorities with a similar though competing theological tradition, rather than those of another world religion. While there is some switching across religions, most “switchers” change denominations within the same world religion (Stark and Finke 2000, p. 114). Accordingly, in a Christian-majority country, the most likely “poachers” of the majority religion are other Christian denominations. Retaining membership is a core interest of any religion. We posit that this motivation would outweigh the motivation to seek allies in the struggle against secularism and will result in higher levels of discrimination against Christian minorities in Christian-majority countries.

This results in two additional hypotheses:

Hypothesis 5 (H5). *Higher levels of religiosity in a nation will result in less SRD against religious minorities viewed as potential allies.*

However, our second prediction offers important qualifications.

Hypothesis 6 (H6). *When religious minorities are not viewed as potential allies or are viewed as unwanted competitors, increased religiosity in the nation will result in increased SRD against the minority religions.*

3. Measuring SRD of Religious Minorities

In recent years, the availability of data and measurements of SRD of religious minorities has been nascent. The release of the ARDA’s International Religious Freedom Data in 2005 introduced an important measure of discrimination, the social regulation of religion index (Grim and Finke 2006, 2007, 2011), offering an assessment of a country’s summation of attitudes toward religious minorities. While important, this measure failed to include behavioral evidence of discrimination and excluded the discrimination of individual religious minority groups (Fox et al. 2018).

The Religion and State Dataset Round 3 (RAS3) rectified these limitations through additional sources of evidence, a more comprehensive index with behavioral discrimination, and measurement for 771 religious minorities across 183 countries (Fox 2020; Fox et al. 2018). This revised dataset and new measures are the basis for our assessment of the causes of SRD against religious minorities. The RAS data are based on coder evaluation of multiple sources including academic, media, NGO, and government sources. For a full discussion of the RAS3 dataset including collection methodology, sources and variable construction, and reliability and validity analyses, see Fox (2011, 2020) and Fox et al. (2018). This includes a discussion of why the variables are the unweighted sum of their components as well as comparisons to weighted indexes. It also includes inter-coder reliability tests and comparisons to other datasets. For a general discussion of how results for analyses of specific religious minorities differ from those using the country-level of analysis, see Fox (2016, 2020; Fox and Akbaba 2011).

We use several other cross-national datasets to provide measures for our independent variables. Importantly, we also use multiple waves of the World Values Survey (Inglehart et al. 2014) matched to the nation-years from the RAS3. The combined datasets include 1008 country-year–religious-minority-group observations for our analytical models. This includes 344 Christian minority years (225 in Christian-majority countries), 217 (138) Muslim minority years, and 120 (120) Jewish minority years. The remaining 357 (188) minority years include a wide range of religious minorities: Alevi, Animists, Bahai, Chinese religions, Hindus, Hoa Hoa, Jains, Jehovah’s Witnesses¹¹, Mormons, Scientologists, Sikhs, and Zoroastrians as there are too few cases for any of these minorities for them to be treated separately. Accordingly, this study combines them into the “other” category. See Table A1 in the Appendix A for a full list of the countries, years, and religious minority groups included in our analysis. The majority religion of a country was determined from both the population size of each respective religious tradition and their political and social influence within a country. Thus, there are some instances where a majority religion is not a population majority, but because it controls the government, it is in effect a structural majority.

3.1. Dependent Variable

Our dependent variable is from RAS3’s Societal and Minorities Modules. It includes twenty-seven items measuring SRD against minority religions in a nation (Fox et al. 2018). The variable was collected independently for each minority group within a nation which was at least 0.2% of a country’s population as well as a sampling of smaller Christian, Muslim, and Jewish minorities; thus many small religions are not included. Items of discrimination include the prevention of religious minorities from practicing their faith but also include instances of vandalism, attacks, and economic discrimination. All items in this index were coded using a three-category scale ranging from 0 when there are “no reported incidents of this type . . . ” to 2 when the discriminatory action is substantial. Although this index has the potential range from 0 to 54, no religious minority group in our analytical sample had a score higher than 47. Moreover, the average SRD score of events experienced by a religious minority group is 3.6. Appendix A provides an overview of the SRD scores for each minority group in each country-year from our sample.

3.2. Independent Variables

Country conditions of the reasons for SRD of religious minorities are assessed through a number of measures, including religious characteristics, country governance, and country demographics.

3.2.1. Religious Ideology and Identity

The religious ideology and identity of each country are derived through the matching of the World Values Survey, Waves 2–6 (Inglehart et al. 2014). The World Values Survey consists of survey data from a sample of individuals within each country. Countries from the RAS3 are matched with the WVS for each year of both datasets. For instance, Germany matched in 1997, 2006, and 2013. For each matched country, we calculated the aggregate country level of religiosity from two separate survey items in the WVS:

Religious Attendance is included in each wave of the WVS as a seven-point ordinal scale assessing how often an individual respondent attends a worship service. From this measure, we calculated the percent of the population for each country that attends a religious service at least once a month.

Religious Importance: As with our measure of religious attendance, each wave of the WVS contained an ordinal measure, this time, four points, addressing how important religion is to each individual. This measure was aggregated as a percent of the population for each country that views religion as at least somewhat important.

These variables test h1, h5, and h6.

3.2.2. Power Politics

As discussed above, the relationship of power politics is also a necessary consideration, which we assess through the measures of the majority group, size of the minority group, and government favoritism of religions within a country.

Majority Religion and Minority Percentage account for the religious groups within a country. Three measures are utilized throughout our models. The first two address whether the majority religion is Christian Orthodox (testing h4) or Muslim (for tests that include non-Christian-majority countries) within a country. The final religiosity measure accounts for the size of the minority religious group as a percent of the total population. This directly tests h3.¹² Since our models test the level of SRD for each minority group separately, the relationships look specifically at the size of a minority group and its subsequent experienced discrimination.

The level of *religious legislation* of each country may also have an impact on the presence of SRD within a country, testing h2. We assess legislation through the RAS3 composite measure of religious support, where high scores indicate higher levels of support for religion. This index includes diverse topics ranging between “legislation of religious law as state law, financial support for religion, religious education, and the comingling of religious and political positions” (Fox 2008, p. 53). Also included in our models is a measure of *polity*. The Polity score measures democracy on a scale of −10 (most autocratic) to 10 (most democratic) (Jagers and Gurr 1995).

3.2.3. Country Demographics and Development

Our models also control for the demographics and development of the country through a measure of the total population within a country as well as the GDP in U.S. dollars. We calculated the log of each value. Table 1 provides an overview of the variables as well as their respective scaling and descriptions.

Table 1. Summary statistics and descriptions.

Variable	Obs	Mean	Min	Max	Description
Societal Discrimination	1048	3.604	0	47	Level of societal discrimination within a country
Religious Ideology and Identity					
Religious Importance	1057	0.684	0.036	0.999	Aggregated proportion of the country that identifies religion at least somewhat important
Religious Attendance	1033	0.424	0.008	0.9562	Aggregated proportion of the country that attends worship services at least monthly
Power Politics					
Majority Orthodox	1068	0.141	0	1	Whether a country has Orthodox Christian as the majority religion
Majority Islam	1068	0.208	0	1	Whether a country has Islam as the majority religion
Minority Group Percent	1068	4.044	0.01	60.266	Percent of the religious population represented by the minority religious group
Religious Legislation	1051	10.725	0	46	Level of religious support by the state
Controls					
Log GDP	1045	8.441	5.46	11.352	Log of GDP in current U.S. dollars
Log Total Population	1062	17.184	13.324	21.055	Log of Total Population
Polity Score	1036	5.2	−10	10	Measure of the state’s regime authority from Autocracies (−10) to Democracies (10)

3.3. Analytical Methods

SRD of religious groups is a score addressing the level and severity of minority-group treatment. The potential scores of SRD of religious groups range from 0 to 47. However, the scores for SRD are overdispersed, meaning the majority of the scores are low and we have a variance that is larger than the mean. Thus, linear regression is not appropriate.

We utilize negative binomial regression models to find the probability of a score for each minority group within a country. This allows for a more accurate estimate of values and fit with the observed scores (Long 1997).

The analysis of SRD of religious minority groups occurs in steps. The first step provides a general assessment of the relationships our independent variables have with SRD for all religious minority groups. In other words, Table 2 presents the results without addressing how different minority groups may be treated. These are presented for all countries (Models 1 and 2), as well as only Christian-majority countries (Models 3 and 4)¹³. Yet, not all religious traditions are treated the same, and the patterns and relationships for why SRD occurs may be vastly different. Thus, in Table 3, we present the results corresponding with Christian-majority countries separated by the social treatment of specific minority groups. The four groupings include Muslim (Models 5 and 6), Jewish (Models 7 and 8), Christian (Models 9 and 10), and other minorities (Models 11 and 12). During our analyses, we also identified curvilinear relationships between religious importance (Models 5 and 11) and the percent of the religious minority group within the country (Models 7 and 8) and the level of SRD within a country. These offer greater insight into the role religious ideology and identity play in the relationship with SRD. Table 1 provides an overview of each variable from these models.

Table 2. Negative binomial regression predicting the relationship between societal discrimination of religious minority groups and country characteristics—all religious minority groups.

	All Countries and All Minority Religious Groups				Christian-Majority Countries and All Minority Religious Groups			
	Model 1		Model 2		Model 3		Model 4	
	Coef.	Std. Err.	Coef.	Std. Err.	Coef.	Std. Err.	Coef.	Std. Err.
Religious Ideology and Identity								
Religious Importance	−0.46	0.32			−1.17 **	0.44		
Religious Attendance			−0.62	0.34			−1.58 ***	0.50
Power Politics								
Majority Orthodox	1.62 ***	0.21	1.49 ***	0.22	1.65 ***	0.24	1.26 ***	0.26
Majority Islam	1.11 ***	0.24	1.02 ***	0.23				
Minority Group Percent	0.01	0.01	0.01	0.01	−0.03	0.02	−0.02	0.02
Religious Legislation	0.04 **	0.01	0.04 **	0.01	0.01	0.03	0.02	0.02
Controls								
Log GDP	0.14 *	0.06	0.16 *	0.06	0.25 **	0.09	0.19 ***	0.10
Log Total Population	0.27 ***	0.05	0.26 ***	0.05	0.28 ***	0.07	0.32 ***	0.07
Polity Score	0.01	0.01	0.00	0.01	−0.05	0.01	−0.05 *	0.02
Constant	−5.44 ***	1.05	−5.52 ***	1.05	−5.47 ***	1.33	−5.69	1.30
Observations	1008		984		649		648	

Notes: * $p < 0.05$; ** $p < 0.01$; *** $p < 0.001$.

Table 3. Negative binomial regression predicting the relationship between societal discrimination of religious minority groups and country characteristics—by religious minority group in Christian-majority countries.

	Muslim-Minority Groups				Jewish-Minority Groups			
	Model 5		Model 6		Model 7		Model 8	
	Coef.	Std. Err.	Coef.	Std. Err.	Coef.	Std. Err.	Coef.	Std. Err.
Religious Ideology and Identity								
Religious Importance	−10.84 ***	3.13			−1.39 ***	0.38		
Rel. Import. Squared	7.56 **	2.55						
Religious Attendance			−2.21 **	0.64			−1.30 **	0.46

Table 3. Cont.

	Muslim-Minority Groups				Jewish-Minority Groups			
	Model 5		Model 6		Model 7		Model 8	
	Coef.	Std. Err.	Coef.	Std. Err.	Coef.	Std. Err.	Coef.	Std. Err.
Power Politics								
Majority Orthodox	1.13 **	0.34	0.25	0.36	0.45 *	0.19	−0.19	0.21
Minority Group Percent	0.04 *	0.02	0.05 **	0.02	1.68 **	0.49	1.50 **	0.53
Min. Group Pct. Squared					−0.61 *	0.25	−0.56 *	0.26
Religious Legislation	−0.01	0.03	0.03	0.03	0.05 *	0.02	0.06 *	0.02
Controls								
Log GDP	0.47 ***	0.11	0.30 **	0.11	0.02	0.08	0.04	0.08
Log Total Population	0.25 ***	0.07	0.29 ***	0.08	0.35 ***	0.06	0.37 ***	0.06
Polity Score	0.02	0.04	0.02	0.04	−0.00	0.02	−0.00	0.02
Constant	−4.90 **	1.61	−6.75 ***	1.52	−4.30 ***	1.11	−4.99 ***	1.11
Observations	133		133		115		115	

Notes: * $p < 0.05$; ** $p < 0.01$; *** $p < 0.001$.

4. Results and Discussion

As discussed above, the advent of new data collections allows for a new analysis where we can identify the predictors of SRD for each religious minority. We begin our analysis by reviewing models that include all religious minorities for all nations and models including all religious minorities in Christian-majority countries (Table 2). However, the more interesting and more complete story emerges when we run the same models for specific religious minorities. As predicted, there are clear differences across the models for the religious minorities (Table 3).

4.1. Assessing Patterns for All Religious Minority Groups

Table 2 offers models for predicting SRD of all religious minority groups for all countries (Models 1 and 2) and all religious minority groups for Christian-majority countries (Models 3 and 4). The two religiosity measures, religious importance and religious attendance, are negative and significant for Models 3 and 4. Increases in religiosity were associated with decreases in SRD for all minority groups in the Christian-majority countries but not for the models including all nations (Model 1 and 2). Of great importance generally, and for the results presented later, the religious demographics of a country are also important. Christian-Orthodox- and Muslim-majority countries are significantly more likely to have higher SRD scores than if a country is neither. This finding for Orthodox Christians is consistent across most of our models.

One other measure for “power politics”, the level of religious legislation, was both a positive and significant predictor of increased discrimination when all countries were included (Models 1 and 2). When only the Christian-majority countries were included in Models 3 and 4, however, the coefficients for religious legislation were insignificant. The size of the minority group held a weak and insignificant relationship in all four models. As we demonstrate below, however, the predictors of SRD differ sharply based on the religious minority that is a target of discrimination in Christian-majority countries.

Although not the focus of our study, many of our remaining demographics and development measures were also significant predictors when we looked at all religious minorities. As the population and the per capita GDP within a country increase, so too does the expected score for SRD. We suspect that larger countries allow for greater potential sources for SRD, but we did not anticipate the GDP finding. As we show with later results, however, the relationship between GDP and level of SRD does not hold for most religious minorities. Finally, the polity score (countries that are more democratic) was insignificant in all countries, all minorities (Models 1 and 2) but featured a significant, negative relationship when assessing Christian-majority countries for all religious minorities (Model 4). On its

own, this may suggest that democratic Christian-majority countries may be better at regulating SRD directed at religious minorities; however, as we look at the relationship between polity and specific minority groups, it may instead be a function of democracies in Christian-majority countries protecting other Christian groups.

In short, Table 2 finds that when we include all religious minorities in Christian-majority countries, increased religiosity is associated with reduced discrimination, but an Orthodox majority, higher GDP, and higher population totals are associated with increased discrimination. These findings, however, mask important differences across religious minorities. We proposed that the relationship SRD holds with the country's level of religiosity and the size of the minority religious group will vary depending on the minority religion. Below we review these relationships for specific religious minorities.

4.2. Assessing Patterns for Specific Minority Religious Groups

The models presented in Table 3 test our predictions by replicating the models of Table 2 for Muslim minorities, Jewish minorities, Christian minorities, and other minorities in Christian-majority countries. When separating our religious minority groups, the number of non-Christian-majority countries is too low to provide reliable assessments of the treatment of specific minority groups thus requiring this analytical subset. However, as we noted above, the development of future international survey collections can offer additional cases of non-Christian-majority countries.

As we proposed, when looking at Christian-majority countries, the relationship between the religiosity of the population and the level of SRD varies sharply, even reversing direction, depending on the religious minority. In Christian-majority countries, the country characteristics related to SRD and treatment of Jewish and Muslim minorities are similar, while treatment of Christian groups differs (see Table 3). For Jewish and Muslim minorities, a country's level of religiosity, as measured by religious importance and religious attendance, is negatively associated with SRD. Interestingly, however, as the percentage of Jewish and Muslim minorities increases, so too does the expected SRD score. In other words, when Jewish and Muslims hold a greater percentage of the religious population within a Christian country, they are more likely to experience SRD.

The relationships for Muslim and Jewish minorities are not always linear, however. In fact, we found that religious importance for Muslim minorities is a negative curvilinear relationship, where a distinct negative relationship is present when a country views religion as at least somewhat important at 0 to 50 percent. However, beyond 50 percent of a country viewing religion as at least somewhat important, the negative relationship tapers, resulting in almost no difference between 50 and 100%. This is demonstrated explicitly in Figure 1, a visual representation of the curvilinear relationship between religious importance and the level of SRD.

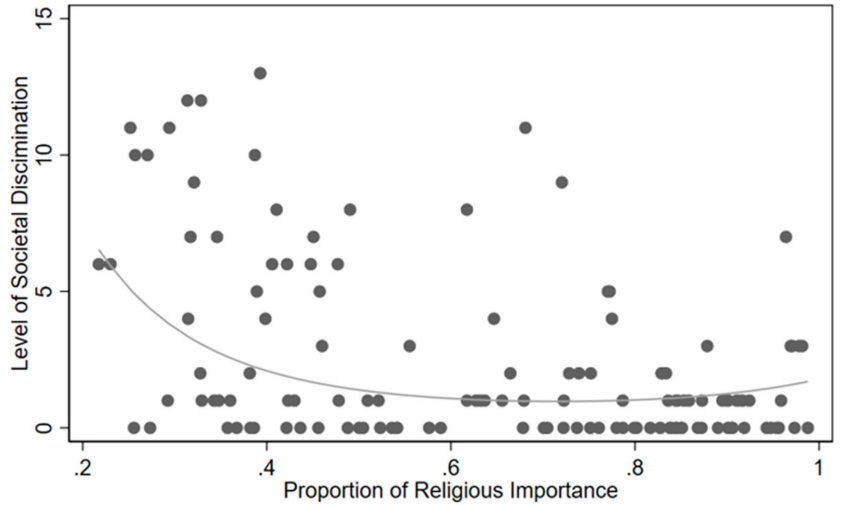


Figure 1. The Relationship between Religions Importance and the level of Societal Discrimination of Muslim Minorities in Christian Majority Countries.

Likewise, there is a curvilinear relationship between the percent of Jewish minorities within a country. However, this relationship is positive before tapering. As the percent of Jewish minorities increases from about 0.01 to 1 (a majority of all cases including Jewish minorities), the expected level of SRD is also expected to increase. Yet, after about one percent of the population, increases in the percent of Jewish minorities are no longer as important and the relationship tapers off. Figure 2 presents this relationship.

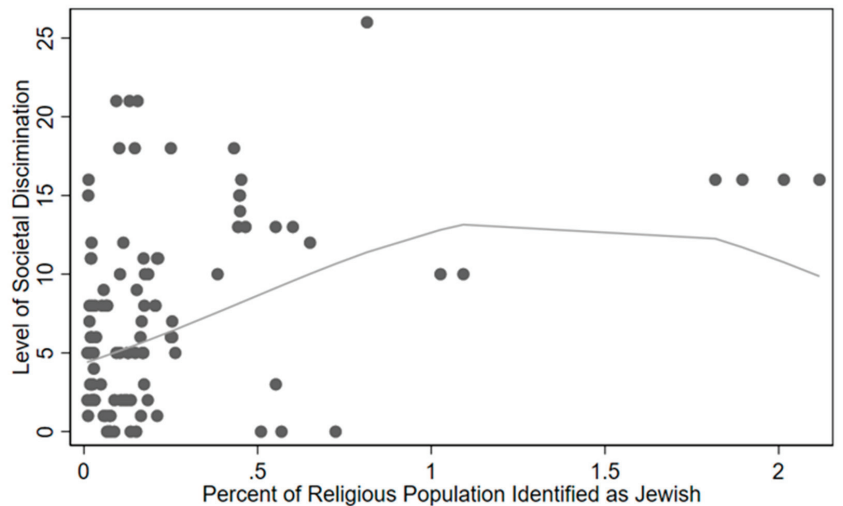


Figure 2. The Relationship between Minority Group Size and the level of Societal Discrimination of Jewish Minorities in Christian Majority Countries.

For Christian minorities in a Christian-majority country, the relationships are flipped. Christian minority groups, which are not designated as part of the religious majority and often seek to convert members of the majority religion, have a greater likelihood of experiencing SRD when a country's level of religiosity is high. Each increase in the proportion of the population that reports attending worship service at least once per month is significantly associated with a 2.84 score increase in the level of SRD for Christian minorities. As the proportion of the population that views religion as important increases, so too does the level of SRD directed at Christian minorities. Similarly, each increase in importance is associated with a 2.58 score increase in the level of SRD.

For the other minorities, Models 11 and 12, the religious groups are so disparate that we caution against drawing any firm conclusions. Unlike the Muslim, Jewish, and Christian minorities that are all linked to a common world religion, the other minorities include a wide range of religious groups with no common ancestry or shared beliefs. The results suggest that religious importance is negative and significantly related to SRD of other minority groups, though the relationship is curvilinear, and that attendance is not significantly related. Yet, because the groups are so varied, we refrain from generalizing these findings.

The alternating signs between group size and SRD are likely due to a combination of factors. All things being equal, SRD will go up as a group's size increases due to increased opportunity. Many manifestations of SRD are spontaneous and occur against targets of opportunity. As populations increase, so will the number of such targets. Christian groups are the exception in Christian-majority states because long-established minorities in a country, such as Catholics in many Protestant- and Orthodox-majority countries, will experience less SRD than the newer Christian denominations, such as U.S. Protestant sects in many European countries. These more recent and highly evangelical arrivals are the more frequent targets of SRD.

Finally, consistent with our models for all religious minorities in Table 2, population size is positive and highly significant for all religious minorities and our measure for Orthodox-majority nations significantly increases SRD in six of our eight models for Christian-majority countries. The log of GDP, however, is insignificant for all religious minorities, except Muslim minorities. We suspect that this finding is the result of many of the more prosperous Western nations perceiving Muslims as a security threat. Polity, however, is only a negative and significant predictor of SRD against Christian minorities. This result appears to be driven by a small number of countries, as most Western democracies have little or no SRD against Christian minorities.¹⁴

Our key finding for Christian-majority countries (Table 3) is that while country characteristics matter when predicting the level of SRD directed at religious minorities, it is important to realize that the treatment varies by the specific religious minority group. This variation is especially striking for our findings on religiosity. For Jewish and Muslim minority groups, the level of religiosity is negatively associated, but the size of the group is positively associated. As proposed, however, religiosity is positively associated with SRD against Christian minority groups. We cautiously note that other minority groups experience a melding of these patterns. We discuss these patterns further and offer greater explanations for why competition matters for explaining SRD but in seemingly different ways depending on the religious tradition.

Of course, not all cases fit the mold exactly. The most glaring exceptions tend to occur in relatively religious countries. For example, Venezuela has high religiosity (attendance 47.6% to 49.3%, religious importance 85.0% to 86.8%), but there is no SRD recorded against any religious minority. In the U.S. (attendance 44.0% to 56.6%, religious importance 68% to 83%), Jews experience high levels of SRD (16). Muslims experienced relatively low levels in 1999 (2), but this spiked after the 2001 terror attacks (9 to 11). Other minorities in the U.S. experienced low levels or no SRD (years 1995, 1999, 2006, and 2011).

5. Conclusions

The causes of SRD in Christian-majority countries against religious minorities are complex and differ across types of religious minorities. The dynamics for Jewish and Muslim minorities are remarkably similar. For both minorities, increased religiosity in a country results in a decrease in levels of SRD. We argue here that this is because secularism is increasingly seen as a significant challenge to Christianity among religious Christians. As a result, they see religious Jews and Muslims as potential allies in this struggle against secularism. Moreover, because these minorities often appeal to a distinct segment of the population, they pose less of a competitive threat to those in the majority religion. As we discuss in our theory section, this likely combines with a growing philosophical tolerance in some strains of Christianity toward at least some religious minorities.

In contrast, Christian minorities experience more SRD in more religious countries. We argue that the Christian minorities are a competitive threat. In the case of Christian minorities, they are a threat because they are more likely to successfully poach members from the Christian majority.

Our findings offer partial support for our remaining hypotheses. As expected, the measure for Orthodox-majority countries was associated with significantly higher rates of SRD in ten of our twelve models. Unlike the Catholic Church, where a centralized hierarchy has increasingly stressed the importance of global religious freedoms, Orthodox Churches frequently stress the importance of their tie to a single culture or nation. The findings for the minority group's size, however, were less consistent and more complex. For Muslim and Jewish minorities, discrimination significantly increased as the size of the minority increased. Yet, the relationship was non-linear for Jewish minorities and was insignificant for Christian minorities. Finally, despite being highly significant when including all nations and all minority religions (Model 1), supportive religious legislation was not a significant predictor in any of our models for Christian-majority nations.

These findings offer important insights into the sources of SRD and the varying relationships between religiosity and tolerance, as well as noteworthy implications on the extent to which secularism is influencing politics and society. Taylor (2007) argued that the mere presence of a secular option, a modern development, has had wide-ranging implications for the nature of religiosity. Fox (2015, 2019) argued that one of these implications is that secular and religious political actors compete to influence the nature of society and politics. This study provided empirical evidence for these assertions. We contend that the evidence suggests that this competition is sufficiently significant that religious Christians are seeking allies in the struggle against secularism from religious Jews and Muslims. Despite Christian teachings holding exclusive truth claims that are in conflict with those held by Jews and Muslims, SRD against Jews and Muslims declines as religious importance and involvement increase in Christian-majority countries. Appleby (2000) aptly described this struggle between tolerance and intolerance of other religions as the "ambivalence of the sacred."

If the religious are discriminating less, this implies secular actors are likely the source of many acts of intolerance toward Jewish and Muslim minorities. This implication aligns with research on the populist radical right (PRR) parties in Europe and on government discrimination against religious minorities. Despite some of the PRR parties claiming to defend their nation's Christian identity, they are more likely to garner support from the secular rather than the religious (Arzheimer and Carter 2009; Montgomery and Winter 2015; Huber and Yendell 2019). Montgomery and Winter explained that "[a]s religiosity increases, the odds of voting for a PRR party instead of a mainstream right party decline." Likewise, Fox (2020) demonstrated that a good portion of government-based discrimination against Jews and Muslims in Western democracies is motivated by secular ideologies. These findings, combined with the evidence presented here, suggest the same may be true for SRD. All of this contributes a new and evolving relationship between religion, secularism, and intolerance.

This study also has important methodological implications. It demonstrates that when examining the causes of discrimination, looking at global country-level scores hides important dynamics and realities. That religiosity increases discrimination against some minorities but decreases it against others is a finding that would not be possible without minority-specific data. These implications, both methodological and theoretical, require a broader research agenda that examines many of our basic assumptions on the complex and evolving relationship between secularism, religion, politics, and society.

Author Contributions: Conceptualization, J.F. and R.F.; methodology, D.R.M.; software, D.R.M.; validation, J.F., R.F. and D.R.M.; formal analysis, D.R.M.; data curation, J.F. and D.R.M.; writing—original draft preparation, J.F., R.F. and D.R.M.; writing—review and editing, J.F., R.F. and D.R.M.; visualization, D.R.M.; project administration, J.F.; funding acquisition, J.F. and R.F. All authors have read and agreed to the published version of the manuscript.

Funding: The Israel Science Foundation (Grant 23/14), The German-Israel Foundation (Grant 1291-119.4/2015) and the John Templeton Foundation.

Data Availability Statement: The Religion and State data is available at www.religionandstate.org (accessed on 1 February 2020). World Values Survey is available at <https://www.worldvaluessurvey.org/wvs.jsp> (accessed on 1 February 2020).

Conflicts of Interest: The authors declare no conflict of interest.

Appendix A

Table A1. Appendix of Countries, Years, Religiosity, and Societal Discrimination by Religious Minority Category.

Country	Year	Religious Importance	Religious Attendance	Societal Discrimination by Religious Minority Category												
				Muslim	Jewish	Christian One	Christian Two	Christian Three	Other One	Other Two	Other Three	Other Four				
Argentina	1991	0.64	0.36	1	12	0	0	0	0	0	0	0	0	0	0	0
	1995	0.68	0.43	1	13	0	0	0	0	0	0	0	0	0	0	0
	1999	0.42	0.72	1	13	0	1	1	0	0	0	0	0	0	0	0
	2006	0.63	0.36	1	13	0	0	0	0	0	0	0	0	0	0	0
Armenia	2013	0.52	0.33	1	14	0	3	0	0	0	0	0	0	0	0	0
	1997	0.62	0.29	1	6	1	21	13	4	4	4	4	4	4	4	4
Australia	2011	0.90	0.35	1	5	1	21	13	4	4	4	4	4	4	4	4
	1995	0.48	0.25	6	15	0	0	0	0	0	0	0	0	0	0	0
	2005	0.48	0.25	10	15	0	0	0	0	0	0	0	0	0	0	0
Belarus	2012	0.48	0.22	7	16	0	0	0	0	0	0	0	0	0	0	0
	1990	0.28	0.06	1	10	0	6	6	6	6	6	6	6	6	6	6
	1996	0.51	0.14	1	10	0	6	6	6	6	6	6	6	6	6	6
Brazil	2011	0.48	0.22	1	10	0	6	6	6	6	6	6	6	6	6	6
	1991	0.86	0.5	1	8	0	0	0	0	0	0	0	0	0	0	0
	1997	0.90	0.75	1	8	0	0	0	0	0	0	0	0	0	0	0
	2006	0.91	0.66	1	9	0	0	0	0	0	0	0	0	0	0	0
Bulgaria	2014	0.90	0.67	1	8	0	0	0	0	0	0	0	0	0	0	0
	1997	0.41	0.16	6	5	0	17	17	17	17	17	17	17	17	17	17
Canada	2006	0.49	0.15	8	7	0	16	16	16	16	16	16	16	16	16	16
	2000	0.65	0.38	4	10	0	0	0	0	0	0	0	0	0	0	0
Chile	2006	0.62	0.35	8	10	0	0	0	0	0	0	0	0	0	0	0
	1990	0.78	0.46	0	2	0	0	0	0	0	0	0	0	0	0	0
	1996	0.74	0.45	0	2	0	0	0	0	0	0	0	0	0	0	0
	2000	0.8	0.45	0	2	0	0	0	0	0	0	0	0	0	0	0
	2006	0.70	0.4	0	2	0	0	0	0	0	0	0	0	0	0	0
	2012	0.59	0.37	0	5	0	0	0	0	0	0	0	0	0	0	0

Table A1. Cont.

Country	Year	Religious Importance	Religious Attendance	Societal Discrimination by Religious Minority Category								
				Muslim	Jewish	Christian One	Christian Two	Christian Three	Other One	Other Two	Other Three	Other Four
Colombia	1997	0.92	0.66	1	2	0	0	0	0	0	0	0
	1998	0.84	0.66	1	3	0	0	0	0	0	0	0
	2005	0.64	0.64	1	5	0	0	0	0	0	0	0
	2012	0.85	0.64	1	2	0	0	0	0	0	0	0
Croatia	1996	0.56	0.36	3	7	32	4	0	0	0	0	0
Greek Cyprus	2006	0.77	0.28	5	2							
	2011	0.78	0.32	4	5							
Czech Republic	1991	0.22	0.11	6	15							
	1995	0.23	0.14	6	16							
Dominican Rep.	1996	0.82	0.54			1						
Ecuador	2013	0.88	0.69	3	0	0	0	0	0	0	0	0
El Salvador	1999	0.95	0.69	0	0	0	0	0	0	0	0	0
	1996	0.27	0.09	0	2							
Estonia	2011	0.26	0.08	0	0							
	1996	0.45	0.11	6	3	0						
Finland	2005	0.45	0.14	7	6	0						
	2006	0.41	0.11	8	26	0	0	0	0	0	0	0
Georgia	1996	0.83	0.27	2	1	7	10	22	22	22	22	22
	2009	0.96	0.39	7	1	8	13	22	22	22	22	22
Georgia	2014	0.97	0.44	3	1	7	10	22	22	22	22	22
	1997	0.27	0.17	10	21	0						
Germany	2006	0.33	0.18	12	21	0						
	2013	0.31	0.16	12	21	0						
Ghana	2007	0.97	0.89	0								
	2012	0.99	0.84	0								
Guatemala	2004	0.95	0.88	0	0	0	0	0	0	0	0	3

Table A1. Cont.

Country	Year	Religious Importance	Religious Attendance	Societal Discrimination by Religious Minority Category													
				Muslim	Jewish	Christian One	Christian Two	Christian Three	Other One	Other Two	Other Three	Other Four					
Hungary	1998	0.42	0.17	0	11	0	0	0	0	0	0	0	0	0	0	0	0
	2009	0.37	0.13	0	12	0	0	0	0	0	0	0	0	0	0	0	0
Italy	2005	0.75	0.54	2	3	0	0	0	0	0	0	0	0	0	0	0	0
Latvia	1996	0.36	0.16	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Lithuania	1997	0.52	0.31	0	5	0	0	0	0	0	0	0	0	0	0	0	0
Macedonia	1998	0.63	0.18	1	0	0	0	0	0	0	0	0	0	0	0	0	0
	2001	0.77	0.33	5	0	0	0	0	0	0	0	0	0	0	0	0	0
Mexico	1990	0.7	0.62	0	0	13	0	0	0	0	0	0	0	0	4	0	0
	1996	0.79	0.65	0	0	13	0	0	0	0	0	0	0	0	4	0	0
	2000	0.87	0.73	0	0	13	0	0	0	0	0	0	0	0	4	0	0
	2005	0.85	0.64	1	1	14	0	0	0	0	0	0	0	0	6	0	0
	2012	0.84	0.62	0	1	13	0	0	0	0	0	0	0	0	4	0	0
	2006	0.66	0.23	2	6	11	0	0	0	0	0	0	0	0	0	0	0
Moldova	2002	0.74	0.29	2	5	13	0	0	0	0	0	0	0	0	0	0	0
	2006	0.73	0.26	2	5	14	0	0	0	0	0	0	0	0	0	0	0
	2006	0.32	0.18	9	10	0	0	0	0	0	0	0	0	0	1	0	0
Netherlands	2012	0.25	0.16	11	10	0	0	0	0	0	0	0	0	1	0	0	0
New Zealand	1998	0.38	0.22	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	2004	0.34	0.20	1	3	0	0	0	0	0	0	0	0	0	0	0	0
	2011	0.36	0.19	1	1	1	0	0	0	0	0	0	0	0	1	0	0
Norway	1996	0.38	0.12	2	2	0	0	0	0	0	0	0	0	0	0	0	0
	2007	0.33	0.11	2	3	0	0	0	0	0	0	0	0	0	0	0	0
Peru	1996	0.82	0.62	0	1	0	0	0	0	0	0	0	0	0	0	0	0
	2001	0.84	0.71	0	2	0	0	0	0	0	0	0	0	0	0	0	0
	2006	0.76	0.63	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	2012	0.80	0.59	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Philippines	1996	0.98	0.90	3	0	0	0	0	0	0	0	0	0	0	0	0	0
	2001	0.97	0.80	3	0	0	0	0	0	0	0	0	0	0	0	0	0
	2012	0.98	0.85	3	0	0	0	0	0	0	0	0	0	0	0	0	0

Table A1. Cont.

Country	Year	Religious Importance	Religious Attendance	Societal Discrimination by Religious Minority Category									
				Muslim	Jewish	Christian One	Christian Two	Christian Three	Other One	Other Two	Other Three	Other Four	
Poland	1997	0.83	0.73	0	11	0	0	0	0	0	0	0	0
	2005	0.85	0.74	0	11	1	0	0	0	0	0	0	0
	2012	0.79	0.67	1	12	0	0	0	0	0	0	0	0
Romania	1998	0.75	0.40	0	8	9	5						
	2005	0.89	0.46	0	8	10	7						
	2012	0.85	0.45	0	8	11	7						
Russia	1990	0.31	0.06	4	18	4	17	10	10	0	0	0	0
	1995	0.40	0.08	4	18	4	17	10	10	0	0	0	0
	2006	0.46	0.12	5	18	4	18	10	10	0	0	0	0
	2011	0.42	0.13	6	18	4	17	10	10	0	0	0	0
	2007	0.96	0.96	0						0	0	0	0
2012	0.72	0.78	0						0	0	0	0	
Serbia (Yugoslavia)	1996	0.54	0.15	0	4	1	5	0	0				
	2001	0.68	0.20	0	5	1	5	0	0				
	2006	0.66	0.26	1	5	1	5	0	0				
Slovak Republic	1998	0.54	0.46	0	6	0	0	0	0				
Slovenia	1995	0.43	0.33	1	1	0	0	0	0				
	2005	0.42	0.28	1	1	0	0	0	0				
	2011	0.33	0.22	1	1	0	0	0	0				
South Africa	1990	0.84		0	5					4	0	0	0
	1996	0.90	0.71	0	5					4	0	0	0
	2001	0.92	0.72	1	5					4	0	0	0
	2006	0.91	0.70	1	7					4	0	0	0
	2013	0.84	0.68	1	6					4	0	0	1
Spain	1990	0.50	0.38	0	2	0							
	1995	0.58	0.37	0	2	0							
	2000	0.50	0.36	0	2	0							
	2007	0.39	0.22	5	4	0							
	2011	0.32	0.19	7	5	0							

Table A1. Cont.

Country	Year	Religious Importance	Religious Attendance	Societal Discrimination by Religious Minority Category													
				Muslim	Jewish	Christian One	Christian Two	Christian Three	Other One	Other Two	Other Three	Other Four					
Sweden	1996	0.29	0.11	1	8	0	0	0	0	0	0	0	0	0	0	0	0
	1999	0.35	0.09	1	8	0	0	0	0	0	0	0	0	0	0	0	0
	2006	0.29	0.08	11	11	0	0	0	0	0	0	0	0	0	0	0	0
	2011	0.26	0.09	10	11	0	0	0	0	0	0	0	0	0	0	0	0
Switzerland	1996	0.44	0.28	0	6	0	0	0	0	0	0	0	0	0	0	0	0
	2007	0.46	0.25	3	7	0	0	0	0	0	0	0	0	0	0	0	0
Tanzania	2001	0.87	0.86	1							1						
Trinidad & Tobago	2006	0.90	0.60	0							0				0		0
	2010	0.91	0.58	0							0				0		0
UK	2005	0.39	0.22	13	13	3	0	0	0	0	0	1	1	1			
USA	1995	0.83	0.57	2	16	1	0	0	0	0	0	0	0	0	0	0	0
	1999	0.83	0.61	2	16	1	0	0	0	0	0	0	0	0	0	0	0
	2006	0.72	0.46	9	16	1	0	0	0	0	0	0	0	0	1	0	0
	2011	0.68	0.44	11	16	1	0	0	0	0	0	0	0	0	1	0	0
	2001	0.94	0.89	0								1			0		
Ukraine	2006	0.54	0.21	0	8	1	6	6	0	0							
	2011	0.63	0.25	1	9	1	6	6	0	0							
Uruguay	1996	0.49	0.23	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	2006	0.46	0.19	0	3	0	0	0	0	0	0	0	0	0	0	0	0
	2011	0.39	0.18	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Venezuela	1996	0.85	0.49	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	2000	0.87	0.48	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Zambia	2007	0.92	0.81	0							0						
Zimbabwe	2001	0.92	0.80	1							1				0		0
	2012	0.96	0.86	1							1				0		0

Notes

- 1 This research was supported by the Israel Science Foundation (Grant 23/14), the German–Israeli Foundation (Grant 1291-119.4/2015), and the John Templeton Foundation. Any opinions expressed in this study are those of the authors alone and do not necessarily reflect those of the supporters of this research.
- 2 For a survey of this literature, see Wald and Calhoun-Brown (2011, pp. 350–57) and Eisenstein (2008).
- 3 See also Westfall and Russell (2019).
- 4 For a review of the research on the relationship religion holds with grievances, violence, terrorism, and civil wars, see Deitch (2020), Fox et al. (2019), Mishali-Ram and Fox (2021), and Zellman and Fox (2020).
- 5 *Christian Today*, “Buddhist Extremists Attack Christian-Run Children’s Home in Sri Lanka”, by Daniel Blake, 14 August 2006; *Christian Solidarity Worldwide*, “Sri Lanka: Religious Freedom in the Post-Conflict Situation”, 1.1.10, available online: <http://dynamic.csw.org.uk/article.asp?t=report&id=123&search> (accessed on 1 February 2020); *Reuters*, “Anti-Christian Feeling Rises in Buddhist Sri Lanka”, by Lindsay Beck, 4 February 2004; *OneWorld*, “Sri Lankan Buddhists Target Christians for Monk’s Death”, 23 December 2003.
- 6 *The Hurriyet Daily News*, “Church Responsible for Bias in Greece Says Report”, 15 September 2009; *In Cyprus*, “Church Sticks to its Guns on Cremation”, by Elias Hazou 2013, available online: <http://www.incyprus.eu/cyprus-news/church-sticks-to-its-guns-on-cremation/>; *Cyprus Today*, “Cyprus Considered the Law on Cremation”, 9 June 2013, available online: <http://en.cyplive.com/ru/news/na-kipre-rassmatrivayut-zakon-o-kremacii.html?selcat=1> (accessed on 1 February 2020).
- 7 *The Christian Science Monitor*, “Gay Rights Could be Major Hurdle for Moldova’s EU Bid”, by Kit Gillet, 29 November 2013; <http://www.csmonitor.com/World/Europe/2013/1129/Gay-rights-could-be-major-hurdle-for-Moldova-s-EU-bid>, *Radio Free Europe, Radio Liberty*, “Gloves Come Off In Moldova’s Church-State Battle”, By Mircea Ticudean, 3 July 2013; available online: <http://www.rferl.org/content/moldova-orthodox-church-eu/25035131.html> (accessed on 1 February 2020).
- 8 Our emphasis on Christian-majority countries is both out of necessity and convenience. The data used for analyses are unfortunately limited in observations outside of Christian-majority countries. We discuss below that our analytical sample becomes too limited if we were to replicate our models from Christian-majority countries to other religious majority countries with an assessment of religiosity. As future international survey collections, such as the World Values Survey Wave 7 are released, our sample can include additional countries never surveyed by the WVS and with a religious majority outside of Christianity, such as the United Arab Emirates (Islam) and Mongolia (Buddhism).
- 9 At the 26th Annual International Law and Religion Symposium (8 October 2019), the director for the International Center for Law and Religious Studies at Brigham Young University, Brett Scharffs, described the Catholic Church as the most powerful institution advocating for religious freedom.
- 10 For a more general discussion on the topic of religious freedom, see Fox (2021).
- 11 The RASM dataset categorizes Jehovah’s Witnesses and several other groups as cults which places them in a different category as other religious minorities. As all 17 country-years for Jehovah’s Witnesses are within Christian-majority countries and discrimination against them is high, it is unlikely that including them in the Christian category would change this study’s results for Christian minorities.
- 12 Population variables were taken from the Religious Characteristics of States (RCS) dataset (Brown and James 2018).
- 13 Although an assessment of other religious majority countries would be beneficial to our argument, there are substantially fewer non-Christian-majority countries in our sample than there are Christian-majority countries. We did, however, run additional models accounting for alternative variations and patterns. These include Muslim-majority countries, West/non-West countries, and developed/non-developed countries. Further, country governance such as the presence of an independent judiciary as well as free and open elections are routinely shown to reduce levels of state restrictions on religious minorities (Finke et al. 2017b; Finke and Mataic 2021; Mataic and Finke 2019). We included these measures in additional tests finding no significant relationship with SRD across all of our models.
- 14 Christian minorities experience significant discrimination in Mexico and three of the Orthodox-majority countries, Bulgaria, Romania, and Moldova. In Moldova and Bulgaria, the discrimination is primarily against U.S. Protestant denominations that are making inroads into these countries but not Catholics. In Romania, it is against these groups as well as the Greek Catholic Church, which has been targeted for significant harassment by Romanian Orthodox priests (Fox 2020).

References

- Abu-Nimer, Mohammed. 2001. Conflict Resolution, Culture, and Religion: Toward a Training Model of Interreligious Peacebuilding. *Journal of Peace Research* 38: 685–704. [CrossRef]
- Alexander, Kathryn J. 2017. Religiosity and Bellicosity: The Impact of Religious Commitment on Patterns of Interstate Conflict. *Journal of Global Security Studies* 2: 271–87. [CrossRef]
- Appleby, R. Scott. 2000. *The Ambivalence of the Sacred: Religion, Violence, and Reconciliation*. New York: Rowman and Littlefield.
- Arzheimer, Kai, and Elisabeth Carter. 2009. Christian Religiosity and Voting for West European Radical Right Parties. *West European Politics* 32: 985–1011. [CrossRef]

- Basedau, Matthias, Georg Strüver, Johannes Vüllers, and Tim Wegenast. 2011. Do Religious Factors Impact Armed Conflict? Empirical Evidence From Sub-Saharan Africa. *Terrorism and Political Violence* 23: 752–79. [CrossRef]
- Basedau, Matthias, Birte Pfeiffer, and Johannes Vüllers. 2014. Bad Religion? Religion, Collective Action, and the Onset of Armed Conflict in Developing Countries. *Journal of Conflict Resolution* 60: 226–55. [CrossRef]
- Ben-Nun Bloom, Pazit, Gizem Arikan, and Marie Courtemanche. 2015. Religious Social Identity, Belief, and Anti-Immigration Sentiment. *American Political Science Review* 109: 203–21. [CrossRef]
- Ben-Nun Bloom, Pazit, Allon Vishkin, Paz Ben-Nun, Miriam Korenman, and Maya Tamir. 2019. Religion and Anti-Immigration Sentiments in Context: Field Studies in Jerusalem. *The International Journal for the Psychology of Religion* 29: 77–93. [CrossRef]
- Bohman, Andrea, and Mikael Hjerm. 2014. How the Religious Context Affects the Relationship Between Religiosity and Attitudes Toward Immigration. *Ethnic and Racial Studies* 37: 937–57. [CrossRef]
- Brown, Davis, and Patrick James. 2018. The Religious Characteristic of States: Classic Themes and New Evidence for International Relations and Comparative Politics. *Journal of Conflict Resolution* 62: 1340–76. [CrossRef]
- Canetti, Daphna, Stevan E. Hobfoll, Ami Pedahzur, and Eran Zaidise. 2010. Much Ado About Religion: Religiosity, Resource Loss, and Support for Political Violence. *Journal of Peace Research* 47: 1–13. [CrossRef] [PubMed]
- Carol, Sarah, Mark Helbling, and Ines Michalowski. 2015. A Struggle over Religious Rights? How Muslim Immigrants and Christian Natives View the Accommodation of Religion in Six European Countries. *Social Forces* 94: 647–71. [CrossRef]
- Casanova, Jose. 2009. The Secular and Secularisms. *Social Research* 76: 1049–66.
- Cohen-Zada, Danny, Yotam Margalit, and Oren Rigbi. 2016. Does Religiosity Affect Support for Political Compromise? *International Economic Review* 57: 1085–106. [CrossRef]
- De Vreese, Claes H., Jajo G. Boomgaarden, Michael Minkenberg, and Rens Vliegthart. 2009. Introduction: Religion and the European Union. *West European Politics* 32: 1182–89. [CrossRef]
- Deitch, Mora. 2020. Is Religion a Barrier to Peace? Religious Influence on Violent Intrastate Conflict Termination. *Terrorism and Political Violence* 1–17. [CrossRef]
- Djupe, Paul A., and Brian R. Calfino. 2012. Religious Value Priming, Threat, and Political Tolerance. *Political Research Quarterly* 66: 768–80. [CrossRef]
- Driessen, Michael D. 2014a. *Religion and Democratization: Framing Religious and Political Identities in Muslim and Catholic Societies*. New York: Oxford University Press.
- Driessen, Michael D. 2014b. Regime Type, Religion-State Arrangements, and Religious Markets in the Muslim World. *Sociology of Religion* 75: 367–94. [CrossRef]
- Eisenstein, Marie A. 2008. *Religion and the Politics of Tolerance: How Christianity Builds Democracy*. Waco: Baylor University Press.
- Ferrari, Silvio. 2010. Proselytism and Human Rights. In *Christianity and Human Rights: An Introduction*. Edited by John Witte Jr. and Frank S. Alexander. New York: Cambridge University Press.
- Finke, Roger. 2013. Origins and Consequences of Religious Freedoms: A Global Overview. *Journal for the Scientific Study of Religion* 74: 297–313.
- Finke, Roger, and Robert R. Martin. 2014. Ensuring Liberties: Understanding State Restrictions on Religious Freedoms. *Journal for the Scientific Study of Religion* 53: 687–705. [CrossRef]
- Finke, Roger, and Dane R. Mataca. 2021. Reconciling State Promises and Practices: Constitutional Promises and Discrimination against Religious Minorities. *Social Compass*. [CrossRef]
- Finke, Roger, Dane R. Mataca, and Jonathan Fox. 2017a. Assessing the Impact of Religious Registration. *Journal for the Scientific Study of Religion* 56: 720–36. [CrossRef]
- Finke, Roger, Robert Martin, and Jonathan Fox. 2017b. Explaining Religious Discrimination against Religious Minorities. *Politics and Religion* 10: 389–416. [CrossRef]
- Fox, Jonathan. 2008. *A World Survey of Religion and the State*. New York: Cambridge University Press.
- Fox, Jonathan. 2011. Building Composite Measures of Religion and State. *Interdisciplinary Journal of Research on Religion* 7: 1–39.
- Fox, Jonathan. 2015. *Political Secularism, Religion, and the State: A Time Series Analysis of Worldwide Data*. New York: Cambridge University Press.
- Fox, Jonathan. 2016. *The Unfree Exercise of Religion: A World Survey of Religious Discrimination against Religious Minorities*. New York: Cambridge University Press.
- Fox, Jonathan. 2019. A World Survey of Secular-Religious Competition: Government Religious Policy from 1990 to 2014. *Religion, State and Society* 47: 10–29. [CrossRef]
- Fox, Jonathan. 2020. *Thou Shalt Have No Other Gods Before Me: Why Governments Discriminate Against Religious Minorities*. New York: Cambridge University Press.
- Fox, Jonathan. 2021. What is Religious Freedom and Who Has It? *Social Compass*, 1–21. [CrossRef]
- Fox, Jonathan, and Yasimin Akbaba. 2011. The Religion and State Minorities Dataset. *Journal of Peace Research* 48: 807–16.
- Fox, Jonathan, and Ephraim Tabory. 2008. Contemporary Evidence Regarding the Impact of State Regulation of Religion on Religious Participation and Belief. *Sociology of Religion* 69: 245–71. [CrossRef]
- Fox, Jonathan, Roger Finke, and Dane R. Mataca. 2018. New Data and Measures on Societal Discrimination and Religious Minorities. *Interdisciplinary Journal of Research on Religion* 14: 1–37.

- Fox, Jonathan, Chris Bader, and Jennifer McClure. 2019. Don't Get Mad: The Disconnect between Religious Discrimination and Individual Perceptions of Government. *Conflict Management and Peace Science* 35: 495–516. [\[CrossRef\]](#)
- Frieland, Roger. 2001. Religious Nationalism and the Problem of Collective Representation. *Annual Review of Sociology* 27: 125–52. [\[CrossRef\]](#)
- Froese, Paul. 2004. After Atheism: An Analysis of Religious Monopolies in the Post-Communist World. *Sociology of Religion* 65: 57–75. [\[CrossRef\]](#)
- Gill, Anthony. 2005. The Political Origins of Religious Liberty: A Theoretical Outline. *Interdisciplinary Journal of Research on Religion* 1: 1–35.
- Gill, Anthony. 2008. *The Political Origins of Religious Liberty*. New York: Cambridge University Press.
- Gopin, Marc. 2000. *Between Eden and Armageddon: The Future of World Religions, Violence, and Peacemaking*. Oxford: Oxford University Press.
- Gopin, Marc. 2002. *Holy War, Holy Peace: How Religion Can Bring Peace to the Middle East*. New York: Oxford University Press.
- Grim, Brian J., and Roger Finke. 2006. International Religion Indexes: Governmental Regulation, Government Favoritism, and Social Regulation of Religion. *Interdisciplinary Journal of Research on Religion* 2: 1–40.
- Grim, Brian J., and Roger Finke. 2007. Religious Persecution in Cross-National Context: Clashing Civilizations or Regulated Religious Economies? *American Sociological Review* 72: 633–58. [\[CrossRef\]](#)
- Grim, Brian J., and Roger Finke. 2011. *The Price of Freedom Denied*. New York: Cambridge University Press.
- Grzymala-Busse, Anna. 2012. Why Comparative Politics Should Take Religion (More) Seriously. *Annual Review of Political Science* 15: 421–42. [\[CrossRef\]](#)
- Gurr, Ted R. 1993. *Minorities At Risk*. Washington, DC: United States Institute of Peace.
- Gurr, Ted R. 2000. *Peoples Versus States: Minorities at Risk in the New Century*. Washington, DC: United States Institute of Peace Press.
- Hehir, Bryan J. 2010. The Modern Catholic Church and Human Rights: The Impact of the Second Vatican Council. In *Christianity and Human Rights: An Introduction*. Edited by John Witte Jr. and Frank S. Alexander. New York: Cambridge University Press.
- Helbling, Marc. 2014. Opposing Muslims and the Muslim Headscarf in Western Europe. *European Sociological Review* 30: 242–57. [\[CrossRef\]](#)
- Hoffman, Michael T., and Elizabeth R. Nugent. 2015. Communal Religious Practice and Support for Armed Parties: Evidence for Lebanon. *Journal of Conflict Resolution* 61: 869–902. [\[CrossRef\]](#)
- Horowitz, Donald L. 1985. *Ethnic Groups in Conflict*. Berkeley: University of California Press.
- Huber, Stefan, and Alexander Yendell. 2019. Does Religiosity Matter? Explaining right-wing extremist attitudes and the vote for the Alternative for Germany (AfD). *Religion and Society in Central and Eastern Europe* 12: 63–82. [\[CrossRef\]](#)
- Inglehart, R., C. Haerpfer, A. Moreno, C. Welzel, K. Kizilova, J. Diez-Medrano, M. Lagos, P. Norris, E. Ponarin, B. Puranen, and et al., eds. 2014. *World Values Survey All Rounds*. Madrid: JD Systems Institute.
- Jagers, Keith, and Ted Robert Gurr. 1995. Tracking Democracy's Third Wave with the Polity III Data. *Journal of Peace Research* 32: 469–82. [\[CrossRef\]](#)
- Jelen, Ted G., and Clyde Wilcox. 1990. Denominational Preference and the Dimensions of Political Tolerance. *Sociological Analysis* 51: 69–81. [\[CrossRef\]](#)
- Karpov, Vycheslav. 2002. Religiosity and Tolerance in the United States and Poland. *Journal for the Scientific Study of Religion* 41: 267–88. [\[CrossRef\]](#)
- Kose, Talha, and Mesut Ozcan. 2016. A Comparative Analysis of Soft Power in the MENA Region: The Impact of Ethnic, Sectarian, and Religious Identity on Soft Power in Iraq and Egypt. *Foreign Policy Analysis* 12: 354–73. [\[CrossRef\]](#)
- Lai, Brian. 2006. An Empirical Examination of Religion and Conflict in the Middle East, 1950–1992. *Foreign Policy Analysis* 2: 21–36. [\[CrossRef\]](#)
- Laustsen, Carsten B., and Ole Waever. 2000. In Defense of Religion: Sacred referent Objects for Securitization. *Millennium* 29: 705–39. [\[CrossRef\]](#)
- Little, David. 1994. *Sri Lanka: The Inversion of Enmity*. Washington, DC: United States Institute of Peace Press.
- Long, J. Scott. 1997. *Regression Models for Categorical and Limited Dependent Variables*. Thousand Oaks: Sage Publications.
- Mataic, Dane R., and Roger Finke. 2019. Compliance Gaps and the Failed Promises of Religious Freedoms. *Religion, State and Society* 47: 124–50. [\[CrossRef\]](#)
- McDermott, Monika L. 2009. Religious Stereotyping and Voter Support for Evangelical Candidates. *Political Research Quarterly* 62: 340–54. [\[CrossRef\]](#)
- McGuckin, John A. 2010. The Issue of Human Rights in Byzantium and the Orthodox Christian Tradition. In *Christianity and Human Rights: An Introduction*. Edited by John Witte Jr. and Frank S. Alexander. New York: Cambridge University Press.
- Milligan, Scott, Robert Anderson, and Robert Brym. 2014. Assessing Variation in Tolerance in 23 Muslim-Majority and Western Countries. *Canadian Review of Sociology* 51: 241–61. [\[CrossRef\]](#)
- Mishali-Ram, Meirav, and Jonathan Fox. 2021. Is Governmental and Societal Discrimination against Muslim Minorities behind Foreign Fighters in Syria and Iraq. *Journal of Peace Research* 1–14. [\[CrossRef\]](#)
- Montgomery, Kathleen, and Ryan Winter. 2015. Explaining the Religion Gap in Support for Radical Right Parties in Europe. *Politics and Religion* 8: 379–403.

- Nelsen, Brent F., and James L. Guth. 2015. *Religion and the Struggle for European Union: Confessional Culture and the Limits of Integration*. Washington, DC: Georgetown University Press.
- Nelsen, Brent F., James L. Guth, and Brian Highsmith. 2011. Does Religion Still Matter? Religion and Public Attitudes toward Integration in Europe. *Politics and Religion* 4: 1–26. [CrossRef]
- Neuberg, Stephen L., Carolyn M. Warner, Stephen A. Mistler, Anna Berlin, Eric D. Hill, Jordan D. Johnson, Gabrielle Filip-Crawford, Roger E. Millsap, George Thomas, Michael Winkelman, and et al. 2014. Religion and Intergroup Conflict: Findings from the Global Relations Project. *Psychological Science* 25: 198–206. [CrossRef]
- Pearce, Susanna. 2005. Religious Rage: A Quantitative Analysis of the Intensity of Religious Conflicts. *Terrorism and Political Violence* 17: 333–52. [CrossRef]
- Philpott, Daniel. 2001. *Revolutions in Sovereignty: How Ideas Shaped Modern International Relations*. Princeton: Princeton University Press.
- Pope John XXIII. 1963. *Pacem in Terris: Encyclical on Establishing Universal Peace in Truth, Justice, Charity and Liberty*. Available online: http://w2.vatican.va/content/john-xxiii/en/encyclicals/documents/hf_j-xxiii_enc_11041963_pacem.html (accessed on 21 October 2019).
- Sarkissian, Ani. 2015. *The Varieties of Religious Repression: Why Governments Restrict Religion*. New York: Oxford University Press.
- Smith, Anthony D. 1999. Ethnic Election and National Destiny: Some Religious Origins of Nationalist Ideals. *Nations and Nationalism* 5: 331–55. [CrossRef]
- Smith, Anthony D. 2000. The Sacred Dimension of Nationalism. *Millennium* 29: 791–814. [CrossRef]
- Stark, Rodney. 2001. *One True God, Historical Consequences of Monotheism*. Princeton: Princeton University Press.
- Stark, Rodney. 2003. *For the Glory of God*. Princeton: Princeton University Press.
- Stark, Rodney, and William Bainbridge. 1985. *The Future of Religion: Secularization, Revival and Cult Formation*. Berkeley: University of California Press.
- Stark, Rodney, and Roger Finke. 2000. *Acts of Faith: Explaining the Human Side of Religion*. Berkeley: University of California Press.
- Stark, Rodney, and Lawrence R. Iannaccone. 1994. A Supply Side Reinterpretation of the ‘Secularization’ of Europe. *Journal for the Scientific Study of Religion* 33: 230–52. [CrossRef]
- Tajfel, Henri, and John Turner. 1982. The Social Psychology of Intergroup Relations. *Annual Review of Psychology* 33: 1–39. [CrossRef]
- Taylor, Charles. 2007. *A Secular Age*. Cambridge: Harvard University Press.
- Tol, Gonul, and Yasemin Akbaba. 2014. Minorities on ‘Civilizational’ Fault lines: An Assessment of Religious Discrimination. *Politics, Religion and Ideology* 15: 161–77. [CrossRef]
- van der Noll, Jolanda, Anette Rohmann, and Vassilis Saroglou. 2018. Societal Level of Religiosity and Religious Identity Expression in Europe. *Journal of Cross-Cultural Psychology* 49: 959–75. [CrossRef]
- Wald, Kenneth D., and Allison Calhoun-Brown. 2011. *Religion and Politics in the United States*, 6th ed. Lanham: Rowman and Littlefield.
- Wald, Kenneth D., Adam L. Silverman, and Kevin S. Friday. 2005. Making Sense of Religion in Political Life. *Annual Review of Political Science* 8: 121–43. [CrossRef]
- Westfall, Aubrey, and ÖzgeÇelik Russell. 2019. The Political Effects of Religious Cues. In *Oxford Research Encyclopedia of Politics*. Edited by William R. Thompson. New York: Oxford University Press. [CrossRef]
- Witte, John, Jr. 2010. Introduction. In *Christianity and Human Rights: An Introduction*. Edited by John Witte Jr. and Frank S. Alexander. New York: Cambridge University Press.
- Zellman, Ariel, and Jonathan Fox. 2020. Defending the Faith? Assessing the Impact of State Religious Exclusivity on Territorial MID Initiation. *Politics and Religion* 13: 465–91. [CrossRef]

Article

The Freedom of Religious Institutions and Human Flourishing in India: A Present and Future Research Agenda

Rebecca Supriya Shah

Archbridge Institute, Washington, DC 20009, USA; rebecca.shah@protonmail.com

Abstract: In this paper, I explore how India's complex regime of control and management of religious institutions and communities—ironically, particularly Hindu institutions—influences the capacity of these institutions to promote various dimensions of human flourishing and socio-economic uplift among the most marginalized. In addition, I provide an overview of India's highly varied landscape when it comes to the freedom of religious institutions from state control, and in particular discuss how some minority religious institutions experience fewer government constraints on some aspects of their freedom to self-identify and self-govern, especially when compared to some majority institutions, such as Hindu temples. Although some minority institutions still face constraints on certain aspects of their operations, the freedom they have to manage their internal affairs can, at times, translate into greater agility and the ability to innovate and flourish in the context of 21st-century India.

Keywords: culture; religion; institutions; economy; human flourishing; religion institution; education; pandemic; COVID-19

Citation: Shah, Rebecca Supriya. 2021. The Freedom of Religious Institutions and Human Flourishing in India: A Present and Future Research Agenda. *Religions* 12: 550. <https://doi.org/10.3390/rel12070550>

Academic Editors: Timothy Shah and Nathan A. Berkeley

Received: 26 April 2021
Accepted: 9 July 2021
Published: 19 July 2021

Publisher's Note: MDPI stays neutral with regard to jurisdictional claims in published maps and institutional affiliations.



Copyright: © 2021 by the author. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

1. Introduction

Rajesh washes himself and wears a black *lungi* (waistcloth) and settles his neck chain that he received from a *guruswami*—an experienced pilgrim and senior man who has performed the pilgrimage to Sabrimala many times. As soon he put on his neck chain in mid-November, Rajesh began his mandatory *vratham*—a 41-day period of mandatory votive abstinence where he stopped eating meat and having sexual intercourse with his wife or any woman, slept on the floor with only a mat and thin sheet for covering, and stopped drinking alcohol and smoking cigarettes. He is now known to people in his slum in Bangalore as a *swami* (holy man), and is regarded as an incarnation of the male deity Ayappan himself, and is expected to be treated as such. Rajesh spends the day working as an autorikshaw driver but in the evening, meets up with other male *swamis* for devotional singing and prayers. After 41 days, Rajesh packs his cloth pouch and begins his 65 kilometer trek up to Sannidhanam or Ayappan's temple on the banks of the Pamba river. Following a ritual bath, Rajesh waits in line with millions of *swamis* to receive *darshan* (auspicious sighting) of Ayappan and offer his gifts of money and ghee. After his meeting with the deity, the mandatory period of *vrattam* ends as an elated Rajesh removes his neck chain, changes into this t-shirt and trousers, and joins throngs of male pilgrims heading back home to become husbands, brothers, sons, and householders once again.

Hindu men, from the earliest beginnings thousands of years ago, have undertaken the journey to Sabarimala to pay their respects and receive the blessings of the celibate male deity, Ayappan. This pilgrimage has always been a gender-specific ritual activity undertaken only by communities of male pilgrims, and women of child-bearing age for centuries were barred from participation. On 28 September 2018, the Supreme Court of India ruled that a ban on entry for women of a certain age at the Sabarimala temple was unconstitutional. Chief Justice Dipak Misra, in his landmark ruling, stated that the Constitution cannot and should not become an “instrument for the perpetuation of patriarchy.”¹ Indian society, in his view, must move away from what he called a “patriarchal

mindset” that derogates the “status of women in the social and religious milieu.”² The Court maintained that “sometimes in the name of essential and integral facet of the faith such practices (in this case, exclusion of women) are zealously propagated.”

The Sabarimala temple controversy is but one of the many ways India exhibits a fascinating and yet too frequently ignored relationship between the state, a complex regulatory regime, and the freedom of Hindu temples and other religious institutions. In what follows, I explore how India’s complex regime of control and management of religious institutions and communities—ironically, particularly Hindu institutions—influences the capacity of these institutions to promote various dimensions of human flourishing and socio-economic uplift among the most marginalized. In addition, I provide an overview of India’s highly varied landscape when it comes to the freedom of religious institutions from state control, and in particular discuss how some minority religious institutions enjoy relatively few government constraints on some aspects of their freedom to self-identify and self-govern, especially when compared to some majority institutions, such as Hindu temples. This greater freedom, in turn, translates into greater agility and ability to innovate and flourish in the context of 21st-century India.

2. State Management of Temples and the Impact on the Functioning of Religious Institutions

Is there an implied patriarchy in the centuries-old belief that only men can undertake the arduous task of remaining “pure” for the 41 days of *vrattam* (penance) prior to the pilgrimage? As Mr. Raju Ramachandran, the lead lawyer for the *Sabarimala* petitioners, claimed in his opening arguments, “Does the practice of excluding women of child-bearing age impinge upon the dignity of women and denude their right to worship? Perhaps, it does. But one must ask a more important, indeed a more foundational question, and that is: Is it the responsibility of the Supreme Court of India to determine what constitutes the essential part of religion? Do Indian judges have the right to identify which theological doctrines and practices within any given religious tradition (including Hinduism) are ‘essential,’ regardless of what the community itself might say, in order to justify and expand the state’s regulatory reach and power over any doctrines and practices it deems non-essential? In the damning judgment of distinguished Indian jurists Rajeev Dhavan and Fali Nariman, ‘Few religious pontiffs possess this kind of authority.’”³

Before one can assess the impact of the Indian Supreme Court’s majority decision in the recent *Sabarimala* case on the religious freedom of a majority religious community to regulate and manage its own religious affairs, it is necessary to say something about the nature and extent of the Court’s role as social mediator and adjudicator since independence. What should be the Court’s role in social reform with particular reference to the conflict between the temple-entry powers of the state and a religion’s (or denomination’s) right to control admission to its premises? How does the state’s view of Hinduism as an “attractive, progressive, and dynamic”⁴ faith that needs to be separated from the mire of superstition and ignorance affect a religious community’s ability to define and shape its own teachings and religious identity?

There have been extensive comments on these issues in recent years, and any detailed discussions of the arguments and evidence advanced is beyond the scope of this article.⁵ Suffice to say that as a result of the work of legal scholars like Marc Galanter and Faizan Mustafa and political theorists like Pratap Mehta, it is now possible to understand the crucial role of the Constitution and pieces of legislation like the Hindu Religious and Charitable Endowment Act of 1951 in the reform and control of Hindu religious institutions and communities before and after Indian independence. In fact, Marc Galanter finds that in crucial respects the “Constitution is a charter for the reform of Hinduism,” whether or not its adherents wish for the reform.⁶ Although Articles 25–28 protect the religious freedom of individuals and institutions, they also provide significant scope for state-sponsored social reform.

Especially well documented by Galanter⁷ and other legal scholars is the intense disagreement between Indian jurists who regard certain exclusionary practices such as untouchability, which may stand in the way of creating an integrated Hindu community by denying entry to certain groups, and others who might support the primacy of religious claims of groups and institutions. In the landmark *Yagnapurshadji* case,⁸ Justice P.B. Gajendragadkar, a man who is described as “a militant advocate of a reformist brand of secularism,”⁹ argued that an individual’s rights conferred by the Constitution to enter a Satsangi temple prevailed over the claims by the religious community that they were not Hindus and therefore not governed by the state’s laws of mandatory temple-entry. Gajendragadkar maintained that the rights of individuals conferred by the state under the temple-entry power trumped the Satsangi denomination’s claim to exclude outsiders even though this exclusion was seen—by the community—as a part of their constitutional right to freedom of religion. In a strongly worded judgement, the Justice asserted that the appellant’s religious beliefs regarding the entry of the non-Satsangi Harijans (untouchables) into their temples was founded not only on superstition and ignorance, but also—here ascribing to himself the role of a Hindu *pandit* (theologian)—that their claim was based on a “complete misunderstanding of the true teachings Gita.”¹⁰

Even in situations where allegations concern direct attacks on the dignity of individuals and the social inequities that appear to be embedded within the religion itself, the Constitution provides “textual justification to give social reform overriding priority.”¹¹ We see the pace of regulatory overreach and social reformation quicken. It came to a head in the recent *Sabarimala* case when Justice Chandrachud stated that the non-entry of women into the temple of a celibate deity, Ayappan, was tantamount to a form of untouchability under Article 17 of the Constitution. In her spirited dissent, Justice Indu Malhotra pointed out that the practice of untouchability in India was meant to refer to outcastes or Dalits and never to women as a class and has a particular vileness associated with it. Furthermore, she argued that to compare the rights of Dalits with reference to the entry to temples and women in her view was “wholly misconceived and unsustainable.”¹² Nevertheless, Chandrachud’s judgment makes it more likely for the state to intervene any time it encounters a cultural practice that it deems unequal or discriminatory. Although agreeing with the Court’s decision to allow women of childbearing age to enter the temple, Pratap Mehta says that the reasoning by which the conclusion was reached “is a recipe for whole scale statism, in the name of social reform.”¹³ “It is not an exaggeration to say that Hinduism has been nationalized [*sic*] through the agency of the state,” continues Pratap Mehta. “The state now runs tens of thousands of religious institutions. If you look at the case law, it is hard to argue that temples are autonomous creatures outside the state in the way in which churches might be in the US.”¹⁴

Quite apart from the tremendous anxiety and turbulence caused by the restrictive regulatory oversight and social controls of the Hindu community but also of some Muslim, Christian, and other minority religious communities, the constitutional mandate has imposed another serious and more insidious constraint on traditional religious communities and institutions in India. State intervention by rulings that seek to shape religion by promulgating public standards and by defining the field in which these standards operate have gradually set in motion an enforced reformulation of Indian religious practices and customs under the auspices of national and international development agencies in the name of human flourishing and progress.

In a recent Danish Institute for Human Rights report¹⁵ entitled “promoting freedom of religion or belief and gender equality in the context of the sustainable development goals” and in the section on access to justice, education, and health, the authors raise an important issue, which is that in some cases women who speak out to claim their rights might face resistance and exclusion if they defy dominant norms and values. The authors, with no discussion about the intrinsic religious value of the practice or set of beliefs that may have led to the ban on women of childbearing years from entering the sanctum of a celibate deity, at once claimed that the ban was unconstitutional and a violation of a woman’s freedom of

religion or belief. It is clear that over the coming years we will see the Westernized ruling elite in India collaborate more with development practitioners to actively reformulate religious institutions and communities in the name of human development and progress. Unfortunately, although associated with human freedom, human rights as promoted by Western institutions that seek to filter and refine traditional religious practices and beliefs too often appear to offer an all-or-nothing cultural package that Indians are bound to accept in every sector of society regardless of their own indigenous cultural and religious traditions.

3. State Regulation of Temples during the COVID-19 Pandemic

Sadly, the wholesale nationalization and state control of majority religious institutions in India has seriously complicated the relationship between Hindu religious institutions and their adherents during times of hardship, such as during the current COVID-19 pandemic. Strict government regulations placed limits on what and how Hindu temples and religious institutions could intervene to help their congregants during one of the world's harshest and longest COVID-19-related lockdowns in the world, which took place between March and June 2020.

In a recent study, a series of focus group discussions and semi-structured interviews were conducted in early 2021 with low-income individuals from majority and minority religious communities in two South Indian states¹⁶. The focus group discussions and interviews were to assess the impact of the current COVID-19 pandemic on their lives. All 96 individuals that participated in the focus group discussions belonged to Dalit and low-income backgrounds and were daily-wage laborers that lost their ability to earn a living during the lockdown. Considering that most of these individuals did not or could not earn any money to feed their families for over two months, we found that most of the Christian and Muslim individuals who participated in our study received at least some help in the form of food or money from their religious community or institutions. In *Sait Palya*, a large Muslim-dominated slum in Bangalore, the local mosque prepared food for poor families and distributed it once a day for over three months between February and April 2020. Over the course of the study, it became clear that no Hindu men and women in our study living in either Tamil Nadu or Bangalore received any help from their local temples. The following short exchange between the group facilitator and one of the Dalit Hindu men in the study illustrates a young man's frustration at being locked out of the temple premises during the pandemic:

- Facilitator: What help did you get from your religious community? You said you went to the Mariamma temple on the main road.
- Respondent: I didn't get any help from the temple.
- Facilitator: What do you mean? . . .
- Respondent: Listen, all the temples were closed no? The gates were shut. There was a lock on the gate, sir. It was our festival so I just removed my footwear and bowed down to God before the closed gates and left. That's all.
- Facilitator: Removed your footwear. That's all? What about any help? Did you get food rations? Milk? Rice?
- Respondent: Look, the gates were shut. We were not allowed to go in to worship. How could we get food? Even when we were bowing down before God the police came and beat us. The police came and warned us that if we stood in front of the temple they will arrest us. We left.

Clearly, the regulatory and arbitral role of the Court and the numerous statutes over the years have imposed significant limitations on the self-governance of Hindu institutions. There is a deliberate abandonment of part of the Hindu community to stringent government regulation such that even small religious institutions like the local temple in a north Bangalore slum were unable to risk opening up to provide food and other assistance to their community when they most needed it. In sharp contrast, numerous Christian and

Muslim respondents talked about getting help from their local Catholic parish, mosque, or even from the small Pentecostal church in the slum.

In early 2020 the state government of Tamil Nadu issued a circular asking temples to contribute to COVID-19 relief. The letter from the state-run Hindu Religious and Charitable Endowment Department ordered all the Hindu temples in Tamil Nadu to contribute at least INR 10 crore (USD 800,000) towards the state's COVID-19 expenses. The circular triggered a political storm and 47 temples filed a petition with Madras High court alleging the government was misusing temple funds. The state government immediately withdrew the circular. This event in Tamil Nadu, at the height of current COVID-19 pandemic, prompted the Rashtriya Swamyamsevak Sangh (RSS), a leading national right-wing Hindu organization, to ask whether the state government's request for funds from temple coffers was a "jizya tax,"¹⁷ a form of tax imposed by Muslim rulers on non-Muslim subjects. In their publication, the RSS claimed that numerous temples around Tamil Nadu were directed to give hundreds of thousands of rupees while thousands of *poojaris* (priests) "are solely dependent on the offerings of their devotees. With the corona pandemic and lockdown, they are now left in the lurch and facing starvation."¹⁸

Interestingly, despite severe criticisms from the central government and the state police, the largest temple in south India, the Balaji Temple in Tirupati in the state of Andhra Pradesh, stayed open for most of 2020 and during the height of the first wave of the COVID-19 pandemic. The temple finally shut down for a few weeks in March 2020 and then gradually reopened in June of the same year where thousands of devotees returned just as the second wave of the pandemic struck the country. As COVID-19 cases began to rise in the surrounding cities, the state-controlled temple management board, the Tirumala Tirupai Devasthanams (TTD), which runs the temple complex, offered to screen thousands of devotees every day. In a statement to the local media, the CEO of the temple added, "Lord Balaji is there to take care of us. He will guide us through this crisis like he did always."¹⁹ As soon as the temple reopened in June 2020, 15 priests tested positive for COVID-19, which prompted the head priest to request the temple close its doors until the virus abated. The TTD held an emergency meeting and turned down the request for a temporary suspension of *darshan* (*divine viewings of the deity*) for devotees.²⁰

A few months later, in April 2021, the Andhra Pradesh state government imposed a partial state-wide lockdown at the height of the second wave of COVID-19 but the TTD continued to permit an average of 15,000 to 20,000 pilgrims to enter the temple for daily *darshans*.²¹ Although the TTD suspended "*Sarva Darshanam*," (free *darshan* of the deity), it continued to allow paid *darshans* for pilgrims willing to purchase tickets for INR 300 well into the month of June. Since the temple management board is controlled by the state government, any openings or closures of the temple buildings would need to be sanctioned by government officials. However, claiming not to have received "guidance" from the state government, the TTD kept Tirupati Temple open during many months between March 2020 and June 2021 even as India was in the grips of a devastating second wave of the virus and cities across the nation were facing fresh lockdowns.

Apart from the obvious concerns about the impact of stringent state controls on the health and wellbeing of the temple priests and staff at the height of the pandemic, the example of Tirupati Temple serves to highlight the concerns of many Hindus that the Court does not understand or fails to appeal to the intimate connection between the temple and the devotee and ignores the complexity and dynamics of Hindu temples as "divine powerhouses and no mere prayer halls."²²

The recent controversies about the control of temples during the current COVID-19 pandemic, the allocation and distribution of temple offerings,²³ and the high-profile *Sabari-mala* ruling has drawn attention to the way in which India's constitutional framers have imposed uneven and unfair regulations on Hindu institutions, particularly in comparison to minority religious institutions. In the next few months, it is likely that the newly elected Chief Minister of the Tamil Nadu, Mr. M.K. Stalin, will head the state-level advisory committee that will manage the land and assets of hundreds of Hindu temples in the state.

To administer the internal workings of the religious institutions and to “get to know the nuances of temple management,” Mr. Stalin and his board of trustees need only be Hindus having “faith in God.”²⁴

Clearly, the framers were worried that left to itself, religion, particularly Hinduism, would permit discriminatory and destructive religious practices that might constrain India’s powerful potential for economic and social uplift. However, does the Constitution empower secular state officials to initiate changes in temple policies and legitimize them in the name of Hinduism? Following his appointment as Tamil Nadu’s Hindu Religious and Charitable Endowments Minister in June 2021, Mr. Sekar Babu announced that women could be appointed as priests and perform pujas at over 35,000 temples in the state. Are there good religious grounds for opening up the performance of sacred Hindu rituals to women? Should the state reinterpret and reformulate Hindu practices? Is the inclusion of women priests an example of Hindus reforming their religious practices from within their own tradition? Why should the state intrude on Hindu religious practices and ignore the conventional and “patriarchal” practices of other religions—like male-only Catholic priests and Muslim imams? These are large and sweeping questions to which there may not always be simple or clear-cut answers. What happened in Sabarimala, and what is happening in Tamil Nadu, however, provides an opportunity to examine the risks of excessive state intervention in the affairs of Hindu majority institutions.

4. Pujas in a Pandemic: Hindu Communities and Religious Innovation in the Time of COVID

The beginning of the lockdown in India during the month of March 2020 coincided with the most important religious festivals for religious communities across the country. One of the most important Hindu festivals, Ram Navami, the birthday of Lord Ram, fell on the second of April and right in the middle of the most stringent lockdowns in the world. Police and law enforcement patrolled the streets of major cities to arrest (and beat up) any individuals who might dare to attempt a visit to the local temple or shrine. Despite the strict stay-at-home orders by state governments, some high-ranking politicians²⁵ violated their own orders and participated in pujas and other religious ceremonies to mark this very auspicious and holy day. However, for the rest of the faithful, visits to temples and religious gatherings remained cancelled.

It was amid these circumstances that the once closed sanctums of most Hindu temples embraced online pujas, digital *darshans*, and numerous other religious services to accommodate a growing demand for religious services in India. Online pujas have always been an integral part of Hindu worship among the growing numbers of the tech-savvy Indian diaspora in the United Kingdom and the United States. The first and oldest commercial puja website, Sarnam.com, has offered online religious services since 1999. However, most of the interest and participation in online worship at Hindu temples flourished mainly among educated and middle-class Indians and the diaspora who tuned in to live webcasts of pujas at historic temples and on auspicious days. The government lockdown and the two-month-long closure of local temples, including shrines, across the country prompted temple management boards and state governments to offer online pujas at their own facilities.

In mid-May 2020, at the height of the pandemic and during a series of popular rituals, the state governments of Karnataka, Tamil Nadu, and Telangana began live-streaming pujas from their major temples. Karnataka started live-streaming from 50 of its most famous temples and promised to install webcams in the sanctums of other local and less important temples across the state. In addition, the state joined forces with an e-commerce company to develop an app called “PurePrayer” to help devotees across the state book pujas and *sevas* (services) at 52 prominent temples. The app, which is available on Android and iOS devices, allows individuals to book pujas online and does not charge any additional service or convenience fees. The app also allows individuals to order do-it-yourself puja kits to perform their own religious services at home. In a recent move to ensure transparency

and account for the millions of rupees now streaming in online from dedicated devotees for online pujas and customized *sevas*, Andhra Pradesh Chief Minister Y.S. Jagan Mohan Reddy launched an online temple management system that will be managed by Union Bank of India.

Among other innovations for online spirituality provision during the COVID-19 pandemic is a highly realistic virtual reality app called “VR Devotee” that is designed to deliver “a stunning experience on Smart Phones, TVs and VR (virtual reality) headset.”²⁶ Founded five years ago in 2016, the app approached numerous temples and religious institutions in India asking to allow them to live-stream pujas and religious services. Most of the temple management boards refused to entertain any idea of online service provision until the recent COVID-19 pandemic forced the most conservative temple officials and state government to concede by allowing the e-commerce app to allow high-tech cameras to share space with centuries-old deities across the country. In March 2020, VR Devotee saw a 40 percent increase in its user base, mainly for live streams. John Kuruvilla, one of the app’s founders, insists that app’s popularity stems from the unique indigenized religious experience of worship that is “not a clone of firm successful in Europe or the US, but something uniquely Indian.”²⁷ The app provides free live-streaming services but charges for other services that include customized online pujas and puja supplies.

Was, then, the technological innovation in Hindu spiritual service provision during the COVID-19 pandemic a breakthrough to modernity or a breakdown of tradition? Historian Meera Nanda asks if the recent innovation in apps and virtual reality temple worship experiences has encouraged India’s wealthy middle classes to withdraw from public worship into their luxurious “private enclaves.” “Why stand in lines, why suffer the sea of humanity at the temple doors” asks Meera Nanda, “when you can have your prayer done for you while you sit at home?”²⁸ Have some Indians responded to constitutionally mandated temple-entry for all castes by now excluding themselves from public forms of worship? Are Hindu institutions prepared to meet the challenge of preserving deep and devotional online worship without allowing this flourishing online faith to succumb to a political project? Is the increase in virtual Hindu worship a response by some Hindus to maintain their traditions even as the state increases its commitment to disrupting ritual power that has been monopolized by men, particularly Brahmins, over the centuries? These are some of the questions we will need to examine as increasing numbers of Hindus in India continue to practice their faith online and at a distance.

In the recent study on the impact of COVID-19 and religious communities in India, we spoke to groups of individuals from Hindu, Muslim, and Christian religious communities. During our discussion on worship with a group of Dalit Hindu men in Bangalore, we talked about online worship and some of the benefits they enjoyed from this new form of religious practice:

- Facilitator: As a family, you were at home together, were you able to talk about God or how God would help you?
- Respondent #1: Sitting at home we were surrounded by Gods. They were at home with us. We did not have to go or could not go to the temple. I sat with my wife and children and did puja.

Respondent#2: During the corona time, we believe that we got close to God. We saw puja online even though the temples are all closed during the COVID time and we were learning more about our God through this way. We learned to pray at home only and do puja in the house. After all these years we learned to do this at home

5. The Path to Flourishing in India: Sacred or Secular?

For Indians, the story of the role of religious institutions in human flourishing over the past century has been fraught with controversy, ranging across concepts such as freedom, poverty, conversion, caste, and religious identity. Since Indian independence, some intellectuals heir to Jawaharlal Nehru’s call for secular solutions to national problems have held religion in contempt, either because they assumed that religion was irrelevant

and would wither away, or because they believed that any interest in religion—which they believed to be both primitive and sectarian—could not undergird or bolster economic and social progress. Nevertheless, religion in India remains a powerful force in the lives of most of India’s one billion inhabitants. Mahatma Gandhi, unlike Nehru, knew that religion was indeed capable of inspiring and sustaining monumental human endeavors.

Even so, Gandhi’s unabashed acknowledgement and promotion of religious institutions and religious values in political and social life, in tandem with his radical conception of the importance and role of religion in the economic, social, and spiritual lives of people in India, are likely to unsettle many Indian scholars today. Unlike Gandhi, Nehru believed that for a poor and culturally diverse country like India, the only way to become a truly democratic nation was to be “socialist and secularist.”²⁹ Writing in his *Discovery of India*, Nehru confesses that religion “did not attract” him because “it seemed to be closely associated with superstitious practices and dogmatic beliefs, and behind it lay a method of approach to life’s problems which was certainly not that of science.”³⁰ Nehru gave elegant expression to his strong conviction that religion and religious institutions were inimical to human progress and development in his writings and many speeches. Ainslee Embree suggests that it would not be “too far from the mark, to conclude that Nehru saw the social role of religion in wholly negative terms.” Nehru’s almost unshakable belief that religious institutions must be opposed persisted simply because he was convinced that these institutions had an inherent tendency to check human progress and would be a barrier and hindrance to social progress and human development in the newly independent India.³¹ On the other hand, Gandhi’s devout Hinduism and his relentless striving for religious harmony stands in direct contrast to Nehru’s conviction that religion was a hindrance to change and progress in human society.

Another area where Gandhi and Nehru differed in their approach to religion was with respect to politics. Nehru was not happy with what he regarded as Gandhi’s “religious and sentimental approach to the political question.”³² Because of Gandhi’s intense and enduring religious outlook, the freedom movement in Nehru’s words “took on a revivalist character as far as the masses were concerned.”³³ Gandhi, undeterred by Nehru’s obstinate opposition to religion, remained committed to the view that religion was inextricably woven into the fabric of Indian life and therefore inseparable from politics. Writing in 1940, he is known to have famously said, “those who say that religion has nothing do with politics do not know what religion means.”³⁴ Nehru, however, remained quietly confident that religion would remain a pervasive force only as long as the vast majority of Indians felt powerless in their ability to control the effects of nature and fearful due to the scarcity of resources to meet their daily needs. Nehru was confident that if the economic condition of the poor improved, they would denounce what he called backward and “flabby” beliefs. For Nehru, religion was not just unscientific but also socially and economically harmful, claiming that “religion, though it has undoubtedly brought comfort to innumerable human beings and stabilized society by its values, has checked the tendency to change and progress inherent in human society . . . instead of bringing enlightenment to them, it has often tried to keep them in the dark; instead of broadening their minds, it has frequently made them narrow-minded and intolerant of others . . .”³⁵

Although the passages above might lead us to believe that Nehru found the very idea of religion repugnant and the role of religious institutions unessential and irrelevant, it is also possible, as some scholars very carefully suggest, that Nehru’s distance from religion conveyed his wish for the Indian state to retain a neutral character for reasons of respect; taking sides in religious matters would fail to respect all citizens equally and lead to discrimination and chaos—like what we see in India today. Ainslee Embree notes that Nehru’s commitment to secularism was most likely based on how he understood religion’s function in society and the possible impact of a Hindu nation on non-Hindu religious communities, particularly minorities. Embree maintains that the overriding issue for Nehru was that groups that identify themselves in religious terms might not be representative of democratic institutions.³⁶

As one surveys the evidence for and against the building of a secular state in India, it is evident that whatever Nehru's true intentions were in advocating for secular politics, it is clear that Indian secularism is not the same as its Western counterpart. Indeed, Hinduism, the religion of the majority in India, has a strong tradition of religious pluralism and tolerance of religious diversity. As Shri Radhakrishnan, India's vice president and the second president of India, said:

"When India is said to be a secular state, it does not mean that we as a people reject the reality of an unseen spirit or the relevance of religions to life or that we exalt irreligion. It does not mean that secularism itself becomes a positive religion or that the state assumes divine prerogatives. Though faith in the supreme spirit is the basic principle of the Indian tradition, our state will not identify itself with or be controlled by any particular religion."³⁷

6. A Post-Nehruvian Context for the Study of Religious Institutions and Human Flourishing

This backdrop of debate around the role of religious institutions in Indian society and politics can help us understand how the official Nehruvian model of secularism has shaped post-independence and contemporary scholarship on a variety of issues, such as economic development, health, religious competition, religious change, and overall human flourishing. Academic and legal fields thoroughly lack the study of religion as a dynamic within them, to the detriment of thousands of students who crowd India's massive higher education system. This may be because although the University Grants Commission (UGC), which oversees the higher education system, may fund universities with explicit religious affiliations—including many Roman Catholic colleges—it does not fund the formal study of religion. In recent years, moreover, prominent professors of sociology who applied for funding to study the intersection between religion and caste were turned down because of the current government's concern about the misrepresentation of Hinduism by whom they consider to be anti-Hindu, secular academics in the social sciences.

The apparent lacuna of religious studies within academia and the glaring absence of a systematic examination of religion's role in the economic, social, or spiritual lives of Indians may be traced to two possible causes. First and most obvious is that this phenomenon was built according to a model of secularism that saw all religions, particularly Hinduism, as an anachronism of modern society. It has created a cadre of intellectuals who regard the process of secularizing India—including the academy and any activities seeking to provide economic and social uplift—as a means to modernize India. Religion, in their view, stood in the way of progress and robbed people of the scientific temperament needed to make India a modern, secular society. These accounts of a restrictive Nehruvian vision for post-independence India bring to mind the stern warning by Denis Goulet, the father of development ethics, who criticized this reductionist approach by calling development specialists "one-eyed giants: scientists lacking wisdom. They analyze, prescribe, and act *as if* man could live by bread alone, *as if* human destiny could be stripped to its material dimensions alone."³⁸

Goulet and other development scholars urged policymakers to understand that societies are more human or more developed not when men and women "*have more*" but when they are enabled to "*be more*." However, social scientists and policymakers in India and across the developing world remained skeptical, and in some cases, even hostile to the very idea of religion's importance to human progress and thriving. Most of the architects of the newly independent India under the leadership of Nehru strongly believed that state-sponsored economic growth was the key to social development, which in turn would lead to a rational and liberal outlook of life that was free from the crippling backwardness caused by religiosity and other religious entanglements. Thus, unsurprisingly, the symbols of Nehru's modernizing mission were dams, factories, and power stations—which he sometimes described as the "temples" of new India.

The existence of a sizable and influential group of politically engaged and socially active religious minorities is another factor that has strengthened secularism at the expense

of active and robust religious engagement. In the fields of health, women's empowerment, or in any assessment of the religious impact of social exclusion, religious minorities—and those who work for their protection and support—are among the strongest advocates of secularism in public affairs. Their skepticism and fear of religion in the hands of the majority is so entrenched that they still refuse to include religious freedom as a fundamental right in their advocacy for equality and parity for religious minorities.

7. The Resurgence of Religion in Modern India

After decades of being relegated to the back rooms of political and social life, Hindus, particularly Hindu nationalists, have increasingly challenged the narrative that India should be a secular state. Thus, in India, the widespread resurgence of religion in the late 1980s and early 1990s involved both an increase in affective and deeply held Hindu beliefs and practices as well as the politicized and nationalist version of Hinduism or Hindutva.

Critical developments in the 1990s catalyzed the Indian population's commitment to religion. This commitment grew stronger and more resolute even as successive governments continued to pursue a secularist agenda. After operating on the fringes of the Indian polity since independence, the Hindu nationalist Bhartiya Janata Party (BJP) found its way into the mainstream in the 1990s. One of the lesser-known reasons for the BJP's dramatic rise to power was the airing of the televised serialization of the Hindu epic, *The Ramayana*, by the public broadcaster Doordarshan in January 1987. Every Sunday morning at 9:30, daily life for millions of Indians ground to a halt as people gathered in their homes or at a roadside television to watch the show. As Arvind Rajagopal, professor of media studies at NYU and author of the book *Politics After Television*, explains, "Trains would stop at stations, buses would stop, and passengers would disembark to find a roadside place with a TV—the crowds were so big, people would be unable to see or hear the TV but the point was about being present, being there."³⁹ Faithful Hindus watched the show with piety but the BJP, the rising right-wing Hindu nationalist party, made political use of the show and began to push for the restoration of *Ram Janmabhoomi*, or Ram's birthplace, which some Hindus claim to be the exact site in the city of Ayodhya on which the Mughal rulers built the Babri Masjid. The mosque was demolished in 1992 and triggered widespread Hindu–Muslim violence. A bitterly contested legal battle that spanned three decades came to an end last November when the Indian Supreme Court granted ownership of the disputed holy site to Hindus. Muslims were given five acres of land to build a mosque in the northern part of the city.

The success of the *Ramayana* serial in 1987 galvanized support for the Hindu nationalists, and in 1990 the current BJP president, Lal Krishna Advani, organized a month-long *yatra* (pilgrimage) to Hindu holy sites that rapidly developed a groundswell of support for the Hindu nationalist political cause. The *yatra* in 1990, coupled with the sustained campaign of the Sangh Hindu nationalist organizations and the subsequent attack on the Babri Masjid in 1992, saw a steady resurgence of "religion" in the form of renewed support for the BJP and the RSS⁴⁰ rapidly increasing across the country. Anthropologist Ursula Rao writes that beyond the screening of the *Ramayana* and later the *Mahabharata*, the Hindutva forces and the Ayodhya movement began to use religious iconography and make use of video stations to woo the viewer-devotee as a "voter reworked political culture" on the one hand, and brought about a new "virtual community of believers" on the other.⁴¹

8. Human Flourishing, Religious Institutions, and Religious Innovation in Hinduism

How, if at all, does the media shape radical religious beliefs? What motivates believers, either in India or among the diaspora, to join Hindu groups like the Vishwa Hindu Parishad (VHP), or Bajrang Dal? Based on her field work in India, Purnima Mankekar, an Indian-American cultural anthropologist at UCLA, argues that Hindu devotional viewing does not necessarily translate into approval of or interest in aggressive Hindu nationalism. Not all Hindu websites or television shows are saturated with RSS propaganda.⁴² Although the study of media and politics enjoys significant popularity within India and among Indian

scholars in the diaspora, the topic of religion remains marginal. Few scholars have begun to analyze the impact of new religious media products on devotion and worship.⁴³ Heniz Schiefinger's work lays some groundwork for thinking about Hinduism in digital spaces,⁴⁴ but there has been no systematic assessment or comparative study of the impact of online worship among the various religious traditions in India. A growing number of temples in India have active transmissions of images of the inner sanctum, including images of deities from hundreds of temples across the country, and in the past decade there has been a proliferation of websites offering online pujas,⁴⁵ called "epujas."

Much research of religion online has been largely devoted to Christianity in the West and, to some extent, to Islam. How might religious innovations like online pujas and online cremations, now more popular among Hindus in India⁴⁶ than among the diaspora, democratize worship? Historically, certain groups of individuals, such as women, have been restricted from Hindu temples. "Epujas" let them in. This is a fascinating potential area of study: the impact of technology on the nature of worship and on the role of religious innovations in fostering religious networks and competition. For this line of inquiry to happen, Hindu scholars in the West and in India need to work with Hindu groups like the International Society for Krishna Consciousness (ISKCON) and private companies like the Bangalore-based epuja.co.in. Then they could examine the impact of religious innovations like online pujas on the ability of Hinduism to reinvent itself and expand its influence among traditionally excluded groups like Dalits, women, and non-Indians. Other facets of this type of study could focus on the nature of devotional worship and examine whether online Hindu worship, which lacks the full sensual experience of temple rituals, still comprises a satisfying and wholesome ritual experience for Hindu worshippers. Is Hinduism suitable to cyberspace? How does it compare with other religions? How does the new connectivity amplify opportunities for religious innovation by breaking down barriers to Hinduism, which for millennia has excluded many groups?

9. The Post-1991 Role of Religious Institutions and Human Flourishing in India

Although the political ascendancy of Hindutva forces clearly became established by the late 1980s, another parallel development consolidated and strengthened the rise of religious actors and institutions in India. In 1991, after three decades of state-controlled economic development, the Indian government lifted numerous state controls on exports, production, and private companies to usher in a new era of privatization in the Indian economy. A newly deregulated economy saw increasing levels of inequality where poor, unskilled, and uneducated individuals struggled to support themselves. Although the state stepped aside, numerous religious groups—with improved opportunities to raise funds and create institutions—vied to provide key services for the growing numbers of poor and aspiring poor in India.

In her book *The Economics of Religion in India*, Sriya Iyer finds that in a time of economic liberalization, post-1991, religious organizations increased the levels of existing services and, in some cases, expanded their provision to include new services.⁴⁷ Iyer found that following the liberalization, competition between religious institutions increased all over the country, particularly in areas where state provision of social services was absent or inadequate. What was striking was that religious organizations said that they increased or improved services primarily to propagate their faith and, in some cases, to retain their adherents.

Every day over 40,000 to 50,000 devotees visit the most famous temple in India—the Tirupati Temple in Chittoor district in Andhra Pradesh. The Golden Temple in Amritsar, which is the holiest site for Sikhs, also welcomes over 30,000 people every single day. Religious institutions such as these generate significant revenue from religious activities. Following the economic liberalization of 1991, religious groups have put increasing resources into the provision of non-religious services. The most common of these are in education, healthcare, and food distribution. After the deregulation in the early 1990s and the removal of state involvement in many key social services, there was a spike in levels

of inequality and poverty in India. The plight of the uneducated poor worsened as prices rose and the cost of living increased and state provision either could not or did not keep up with the growing disparities in incomes and services. Simply put, religious organizations stepped into the role from which the state had withdrawn.

The competition among religious institutions in India is a clear example of the extensive impact of religion on public life at both the local and national level. Although there is a significant and urgent need for a rigorous and wide-ranging examination of the impact of religious institutions in India, there is also some concern that increased religious competition might result in increased intolerance. To explain what I mean here, I turn again to Sriya Iyer's work on the economics of religion in India, with its survey of religious institutions. Iyer's study is the only significant academic assessment to date on the nature and level of service provision by religious groups in India. It is a survey of over 500 religious institutions in which she raises a disturbing issue that the scholars interested in the intersection between religious institutions and the market might consider important to investigate, given the steady rise in restrictions on religious institutions in India. Iyer finds that a rise in inequality in India results in growing levels of religious radicalization. Applying a game-theoretic solution to the problem of competition between religious organizations providing similar non-religious services, Iyer contends that religious organizations are pushed towards "extremes in religiousness" to differentiate themselves from each other. She then goes on to argue that because religious organizations are in danger of becoming radicalized, policymakers need to increase the levels of state-sponsored, in her words "secular provision of services," as a way of "limiting the need for religious organizations to provide them."⁴⁸ Clearly, there is some need to investigate Iyer's claim that better state provision of services could minimize religious conflict in the future.

10. The "Halo Effect" of Religious Institutions in India

The current COVID-19 pandemic in India highlights the role of religious groups and institutions to meet the needs of the poor at a time when the government of India abruptly, and without warning, announced a nationwide lockdown on 24 March 2020. Unfortunately, the government's public distribution system was either inadequate or failed to reach millions of poor families because their baseline data failed to include (or in some cases deliberately excluded) numerous households. All at once, millions of daily wage laborers and migrant workers were left without the means to feed themselves or their families. Over the course of two months, numerous religious institutions took responsibility to feed, clothe, house, transport, and provide medical services to millions of households that did have access to any public distribution system. To date there has been no systematic assessment of the economic replacement value of the work of religious institutions and groups in India. For example, Professor Ram Cnaan and Partners for Sacred Places at the University of Pennsylvania's School of Social Policy and Practices conducted a groundbreaking study to estimate the economic value of religious institutions' community ministries, including that of the Catholic Archdiocese of Philadelphia. Cnaan and his colleagues found that the economic value of the community services of the Archdiocese alone far exceeded that of the City of Philadelphia.⁴⁹ Yet, it is possible that some government agencies will likely increase their regulations and restrictions of Christian institutions in the post-COVID-19 period. Why is it important to quantify the loss of vital social services if restrictions on the religious freedom of Christian institutions increase?

On 6 March 2020, just before the current COVID-19 pandemic hit India, extremists beat up hospital staff and arrested workers at Sanjo Hospital in Mandya district, Karnataka State, about an hour's drive from Bangalore city. The extremists claimed that the Catholic hospital was trying to convert its patients by placing Bibles in their rooms. The Christian community in Mandya is very small, about 9000 out of a population of 1.8 million in the district. Religious hospitals like Sanjo hospital and Bangalore Baptist Hospital serve the majority Hindu community in Mandya and Bangalore. Yet Hindu nationalists have imposed stringent controls on foreign currency income for many religious nonprofits such

as these. This restriction poses a severe constraint on their work in India, and thus on the health and welfare of their constituents, most of whom are not Christians.

In line with its economically liberal agenda, the BJP government has steadily moved away from the Nehruvian state-building paradigm and adopted a “*Seva Bharti*” (roughly translated as “Serve India”) approach, which places the onus on private and social institutions to deliver key social services. In the absence of adequate state provision to meet the growing needs for basic social services in India, private institutions, including religious institutions, will need step in to meet the needs of those individuals and households who have suffered sharp declines in consumption, employment, and other forms of human flourishing. Yet, if restrictions on institutional religious freedom continue, this will have a chilling effect on medical, vocational, and educational services among the poor in India.

The unique reach of religious institutions into the heart of vulnerable communities is being seen (although not measured) during the current COVID-19 pandemic, where the ruling BJP government urged non-profit organizations and religious institutions to “cater to the poorer members of our community.” As restrictions on religious communities and institutions in India continue to rise, a worthy project might be one that quantifies the effects of such restrictions on the nature and types of services available to people. In other words, religious restrictions constrain the market not just in the case of religious goods and services, as sociologists Roger Finke and Rodney Stark explain in detail,⁵⁰ but also for the provision of goods and services more generally to communities. A restriction on a religious institution or group thus becomes a loss to the wider community. It is difficult to exaggerate what the Indian economy might lose if religious communities and institutions are limited in or prohibited from providing services for Indians, particularly for the poor and those living on the margins of society.

Some other ideas for future research on the “replacement value” or the “economic halo effect” of religious institutions might include a comprehensive economic valuation of the contribution of religious communities and institutions for all religious traditions in India. Even with a study of the “halo effect” of Indian religious communities, we must be aware that it might not be easy to completely quantify the “true” value of the contributions of religious institutions since the “balance sheet” side of the valuation does not provide an estimate of the deeper and longer-term spiritual development that these institutions and communities provide before and beyond the evaluation. Nevertheless, such an assessment might provide a quantifiable and observable metric of the ways in which religious communities and institutions take immediate and tangible economic burdens off the state and local communities.

Further research might assess the “replacement value” of Sikh *langar* or community kitchens, which are trained to provide thousands of free meals to anyone visiting a Sikh house of worship (*Gurdwara*). Sikhism teaches the importance of “*seva*” or selfless service, and devotees are expected to donate their time and money to serve others. One might even consider a comparative study of Jainism and Sikhism, which are two under-studied religious traditions with a long and established history of religiously motivated giving.

Considering that significant numbers of non-Hindu institutions across India face increasing governmental restrictions and social hostility, we find that these institutions continued to function relatively effectively during the first and second waves of the current COVID-19 pandemic compared to Hindu institutions. For example, in April 2020, the West Bengal Imams Association asked Muslims in the state to donate their *Zakat* (mandatory form of almsgiving in Islam) directly to their local mosques. The imams suggested that the local mosques would distribute food and money to needy families in both Hindu and Muslim communities.⁵¹ The Ketuapal Jama Masjid, one of the 3000 mosques in the state that collected *Zakat* from Muslims in their community, mainly assisted very poor Hindus who had lost their jobs and could not provide for their families during the three-month-long lockdown.

Unfortunately, most Hindu institutions in India are unable to respond to their communities with the agility and adaptability of non-Hindu organizations in the way the

Keuapal Jama Masjid cared for its local community. The question, then, of why non-Hindu institutions serve their congregants better than Hindu institutions is notoriously complex and involves delving into the complicated relationship of law with Hindu tradition, which is beyond the scope of this article. One possible reason for why non-Hindu institutions were better able to adapt to the changing conditions in the country is that, for the most part, churches and mosques are local decision-making institutions that benefit from a better and more complete understanding of the particular and changing needs of their communities. Hindu temples, on the other hand, are carefully regulated by the distant authorities who lack the flexibility and adaptability to address local concerns and needs of Hindus, particularly those Hindus who live on the margins of society. Another possible reason for why non-Hindu institutions accomplished more than Hindu institutions during the pandemic is that a devolution of authority to local religious institutions affirmed and expressed the freedom of mosques and churches to protect their communities during the pandemic, particularly when they felt abandoned by the state.

What enabled non-Hindu institutions to function during the pandemic? Why were mosques and churches more agile and adaptable to the needs of their communities during the crisis than temples? These are important questions that need to be studied because of the complex and multifaceted issues of institutional religious freedom and constitutional authority that underlie them.

11. Human Flourishing and Cultures of Philanthropy across Religious Communities

In India, religious institutions are entirely dependent on philanthropic contributions from individuals or corporations. Although newer forms of social investment such as venture philanthropy, mandatory corporate philanthropy, and giving circles have entered the philanthropic landscape in the West, Indian philanthropy is slow to change. In their latest report on the state of Indian philanthropy in 2019, Bain and Company stated that private giving has increased in India, driven primarily by mandatory corporate giving, commonly known as “corporate social responsibility” donations. Conspicuous due to its absence in an otherwise very detailed report is any mention of religious institutions or religious giving. Additionally, the newly established Centre for Social Impact and Philanthropy, under the leadership of journalist and scholar Ingrid Srinath at Ashoka University, makes no mention of religious institutions and philanthropy on their organizational website, or in their active research portfolio.⁵² Unfortunately, even Bain and Company’s series of annual reports on philanthropy in India also lacks any mention of the state of religious giving in India or the ability of religious institutions to access state or private philanthropic contributions.

Further research is also relevant and much needed in light of the increased burden of social service provision that many religious groups now bear following the economic and social fallout from the current COVID-19 pandemic. Some topics for investigation might include a study of the history and impact of modern Jain philanthropy, which has been in operation for decades in India. Another line of enquiry might be into the ways in which Sikh philanthropic giving differs in relation to other Indic religious traditions like Hinduism or Buddhism. Which factors drive philanthropy in India? This assessment would contribute to the very under-studied but deeply valuable question of how spiritual values, virtues, and ethics shape philanthropic giving in Indic religions and cultures.

12. 11: Religious Institutions, Mental Health, and Human Flourishing

The World Health Organization (WHO) defines health as “a state of complete physical, mental, and social wellbeing.”⁵³ This truth is not new to India, which is among the very first civilizations where religion and medicine were intertwined and where the body’s healing process was not entirely physical but also a spiritual and emotional process. The healers of ancient India were trained to understand that physical ailments were, at least in part, due to divine or spiritual factors.⁵⁴ Curing a person involved a treatment of the mind, body, and soul. Over time, the more holistic notion of health gave way to a biomedical focus with a very narrow set of outcomes aimed at addressing a single specific

disease. However, human flourishing consists of a much broader range of states, including spiritual, mental, social, physical, and even economic outcomes. A person who is said to function well on all these levels might be said to be “flourishing.” However, most empirical studies on health in India and across the world focus mainly on a single disease and the diagnosis and alleviation of its symptoms. In his seminal work on religion, spirituality, and health, psychologist Harold Koenig, professor of psychiatry and behavioral sciences at Duke Medical School, notes that religion and health have been interconnected since the beginning of recorded time. It is only in recent years that the separation has occurred, and this separation, in Koenig’s view, has taken place primarily in developed nations. Dr. Koenig’s work examines whether and how religion and spirituality influence both positive and negative mental health outcomes, where positive outcomes include marital stability, self-confidence about one’s future, and the ability to hold down a job or kick a substance abuse problem; and negative outcomes involve depression, suicide, anxiety, psychosis, substance abuse, delinquency/crime, marital instability, and borderline personality traits.⁵⁵

Another significant recent work on this topic is Tyler VanderWeele’s expansive and holistic conception of human flourishing. Many empirical studies on wellbeing, both in social and biomedical sciences, tend to focus almost exclusively on very restricted and narrow outcomes, such as income or a single disease state. VanderWeele’s work seeks to broaden and expand our understanding of human flourishing to include a wide range of states and outcomes, including mental and physical health, happiness, life satisfaction, meaning and purpose, character and virtue, and close social relationships. In his recent work, *On the Promotion of Human Flourishing*, he presents four major pathways that are relatively common and have reasonably significant effects on human flourishing. These pathways are family, work, education, and religious community. His approach to understanding human flourishing as having broad outcomes rather than just specific disease outcomes is suited to interfaith work in India where multiple factors and pathways promote wellbeing. Although VanderWeele’s work is primarily focused on human flourishing in the West, particularly in the USA, his more recent work (completed in 2019) investigates human flourishing in five culturally distinct populations, in Sri Lanka, Mexico, the USA, Cambodia, and China. Moreover, VanderWeele’s methodology, while highly precise and carefully constructed, is also applicable across cultural settings and might easily be utilized in India.⁵⁶ Findings from a study in India might enrich our knowledge about the potential of religious determinants to influence human flourishing.

VanderWeele’s groundbreaking work on the causal associations between religion and health, including his recent work on non-Western religiosity and wellbeing, can be an effective guide for scholars who wish to apply his extremely rigorous but wholistic methodology to the Indian context. We suggest that VanderWeele’s methodology be applied to an extensive review of the impact of multi-faith religiosity on mental health in India. Although a great deal has been written about medical missions in India, almost no systematic work has been done on the impact of religion and religious institutions on mental health in India. Although the diversity of religious communities in India brings challenges for healthcare providers and institutions to deliver services, in many parts of the country, particularly in rural areas and among older generations, people are more open to spiritual or non-biomedical influences on disease. In many parts of India, treatment and medicines mix fluidly with religious beliefs and practices. For example, studies of psychiatry patients in India suggest that many of them attribute their symptoms to supernatural causes. Others may consider their symptoms to be some kind of punishment from God and refuse medical treatment.⁵⁷

India, therefore, presents an ideal place to invest in research that will give social scientists and medical practitioners a fresh look at ways in which spirituality and religion positively (or negatively) influence mental health. Most of the literature on religion and mental health includes research on how Indian religious traditions might be incorporated into modern psychiatric practice. Research done by Dr. Ajit Avasthi, a leading Indian psychiatrist and the former president of the Indian Psychiatric Society, focuses mainly on

ways in which medical practitioners might need to adapt psychotherapeutic models of care to match their patients' particular religious and cultural backgrounds.⁵⁸

Although many Indian scholars and medical practitioners in both secular and Christian medical institutions would be willing and eager to work on issues of religion and mental health, the most obvious institutional partner should be the Institute for Human Relations, Counseling, and Psychotherapy at the Christian Counseling Centre (CCC)⁵⁹ in Vellore, Tamil Nadu. Started 50 years ago in 1970, CCC was designed to provide counseling training that included both clinical and spiritual elements. As an ecumenical training institution, it operates psychotherapy trainings and counseling trainings for faith-based practitioners from all religious traditions. Drawing on its close academic connections with India's premier medical school, the Christian Medical College (CMC), CCC has trained over 40,000 individuals from a variety of religious traditions. Dr. B. J. Prashatham, who leads CCC, has worked for many decades on the correlation between religion and spirituality and suicide in India. His work includes detailed case studies of the impact of trauma on mental health, with special focus on suicide prevention.

A promising avenue of enquiry might be an interfaith study of the impact, if any, of religious affiliation—particularly religious service attendance—on suicidal behavior. India has the highest suicide rate in the Southeast Asian region, with a rate of 16.5 suicides per 100,000 people.⁶⁰ In addition, there might be a component of the study that educates and trains religious leaders from Christianity, Islam, and also from a variety of Indic religious traditions on the role of religion and spirituality in the prevention of suicides. Religious leaders and mental health experts can work together to better understand ways in which their own religious traditions might help prevent suicides in India, particularly among young people.

13. Human Flourishing, Pro-Developmental Outcomes, and the Religious Economy of Indian Islam

Within the context of the social consequences of religion, the issue of local expression of religiosity raises a number of fascinating issues. How do the poor in India manage to continue to practice their religion even as modernizing forces expect them to abandon practices that are regarded as “traditional” or “primitive”? How and why are these so-called “primitive” expressions of religiosity important for the wellbeing of these communities? What are the particular contributions of local sects and groups from minority and majority religious traditions to the economic environment in India? In many parts of India, Muslims are being told to stop visiting *dargahs*, which are the burial sites of revered Sufi saints or *Pirs*. For many poor Muslims on the subcontinent, access to *dargahs*, where recorded sayings of saints (*malfuzat*) are often chanted, has made Islam more accessible and provided the unlettered faithful with concrete manifestations of the Divine. Increasingly in India, contemporary puritans who are often trained in the ultra-orthodox Wahhabi theological schools and who traditionally come from wealthier middle classes oppose the practice of praying at *dargahs*.

There is tremendous potential to study whether and how local, deeply held, and personally appropriated forms and levels of religious commitment influence social and economic outcomes for the poor. Think of the Muslim who prays five times a day and fasts every year during Ramadan, versus the Muslim who identifies as Muslim by default, in effect because it is the tradition of his or her ancestors. Rebecca Shah has already done two waves of data collection in India to collect data on religious commitment and economic outcomes in India. Her survey of hundreds of Muslims in India and Sri Lanka found that religious intensity among Muslims is positively associated with pro-familial and pro-social outcomes.

Consider, for example, the Dawoodi Bohra community, a small sect within the larger Shia Muslim community. In one of the few comprehensive anthropological studies on the Bohras, Jonah Blank notes that this community's trading success is based to a great extent on their unique religious beliefs and practices.⁶¹ In particular, unlike most traditional

Muslim communities in India, the Dawoodi Bohras have embraced technology and the benefits of India's post-1991 financial market deregulations to expand their influence around the world. Although the vast majority of Bohras reside in India, there are also significant numbers of Bohra communities in Pakistan, Yemen, the Gulf States, Egypt, and Kenya. Most orthodox Muslims regard Bohras as a liberal, reformist, and "Westernized," with progressive views about women, education, and trade.

Further study of the Bohra community would enable us to locate Indian Islam as a pluralizing force in India's religious economy. Here we have a distinctively Indian Muslim community that has grown socially, politically, and economically while protecting its own community boundaries. Despite the tremendous pressure by orthodox Muslims from the Middle East who have had significant influence in India over the past few decades, the Bohras have not permitted themselves to be absorbed into a single Muslim community that demands a singular formation of their religious beliefs and practices. Rather, the Bohra have remained an innovative, competitive, entrepreneurial religious community for decades.

Additionally, since the Bohras present an interesting study of the role of religion in the marketplace, we recommend that research on the religious roots of the Bohras' entrepreneurial success be conducted by scholars and scholar-practitioners of business ethics at free market-oriented think tanks or business schools in India. Such research might help us better understand the ways in which particular aspects of Ismaili Bohra religious beliefs influence their innovation and risk-taking. The late Asghar Ali Engineer, who was head of the Indian Institute for Islamic Studies and who founded the Centre for the Study of Society and Secularism (CSSS), also wrote extensively about the Dawoodi Bohra community.⁶² However, aside from Jonah Blank (who now works at the Rand Corporation), and the late Dr. Engineer, there are few, if any, Indian or Western scholars who do any kind of sociological or ethnographic research on the Bohra community. A study that documents the social and economic contributions of business-oriented Muslims can only help the reputation and morale of a community that feels more beleaguered than ever in India.

14. Religious Institutions, Religion, Human Flourishing, and Character Development

In 2016, scholars in India, along with the Hindu American Foundation (based in the US), called for the removal of Columbia University's Sheldon Pollock from the editorship of the Harvard University Press series on Indian classical texts. They charged that his writings "misrepresent our cultural heritage."⁶³ Last year, a small but very influential group of students at the Banaras Hindu University protested the appointment of Dr. Firoz Khan—a Muslim—as assistant professor in the Sanskrit *Vidya Dharam Vigyan* department. Dr. Khan resigned in December last year after talks with university leadership did not resolve some of the students' concerns about a non-Hindu teacher being allowed to teach in the Sanskrit faculty. Even as the study of classics in American universities dwindles, the situation in India has become extreme. Not only are there few serious scholars of ancient texts in India, but the politicization of the study of Hindu texts has also driven many non-Hindu scholars like Dr. Khan to resign from their jobs. To better examine and explore how religion might promote human flourishing in all its forms, we might consider studying our past. Unfortunately, Indians are losing interest in their past and are well on their way to losing their collective memory. However, how does one convince a people who are increasingly captivated by the thrill of technology and who are scornful about what they regard as the remote past to value the study of classics and restore their rich tradition of pluralism and religious tolerance and diversity?

Over the last couple of decades, there has been particularly intense and aggravated criticism of Indian and Western scholars who critique or question themes in ancient texts. They appear to challenge Indians' understanding of the "greatness of Indian civilization."⁶⁴ The endangerment of classical studies in India is deeper and more complex than just a loss to the wider academic community. If we lose our memory of the past, we risk losing a sense of ourselves. As the Bhagavad Gita puts it, "*When memory is bewildered, the intellect*

is destroyed; and when the intellect is destroyed, one is ruined."⁶⁵ As Sheldon Pollock writes, "Sanskrit for example, offers at one and the same time a record of civilization and a record of parts of ancient Indian texts that offer at one and the same time a record of civilization and record of barbarism, of extraordinary inequality and other social poisons." Pollock warns that once Indians agree that things need to change, there will certainly be disagreement on how to overcome aspects of their unsavory past. Might future research enable open discussions between scholars of classical texts like Sheldon Pollack and Hindu theologians with a view to expanding our understanding of the ancient Hindu religious teachings on the one hand and building a familiarity with modern academic modes of enquiry on the other?

Anantanand Rambachan, a practicing Hindu and a professor of religion at St. Olaf College, argues that traditionally a Hindu theologian worked "from a place of commitment to a tradition." A Hindu theologian's commitment compels him to clarify and, when necessary, defend the fundamental religious teaching outlined in the holy scriptures. Professor Ramabachan goes on to explain that a Hindu theologian and a scholar of Hindu theologies differ in that whereas the former clarifies the meaning of that tradition in the face of critics and seeks to explain its coherence, the latter might not be motivated by a need or desire to affirm or explain its coherence or consistency.⁶⁶ A place where Hindu theologians and scholars of ancient Hindu theologies can engage in respectful and open dialogue could contribute a great deal to building a bridge between the Hindu community and scholars of the religion. It would enable Hindus to be self-critical and open to reasoned argument and discussion and foster a humble approach to their religious teachings and tradition.

As tensions continue to rise between Hindus and scholars of Hinduism, particularly in the West, there is an urgent need to build trust and prevent the alienation of Hindu communities in the diaspora and in India, and to foster support for the academic community. These conversations will build trust, encourage scholars to understand how the tradition can foster human flourishing and wellbeing, and foster humility and self-criticism in scholars, theologians, and the wider community. In the absence of reasoned, open, and critical discussions between theologians and scholars, the gap will be filled with individuals who are neither scholars nor theologians and whose opposition does a disservice to the plurality and profundity of Hindu scriptural traditions.

15. Conclusions

India is the world's largest democracy and an economic powerhouse. However, it is also home to stubborn poverty and some of the world's worst religious persecution, particularly with the rise of a nationalism that adversely affects devoutly religious individuals from both the majority and minority religious traditions. Might India's rich religious traditions and beliefs unleash a dynamism that could promote human progress, economic enterprise, and overall human flourishing? Any investigation into the positive potential of religion on human flourishing in India will require a steady and long-term investment in building capabilities and capacity in the country.

Funding: A significant portion of the research in this paper has been funded by the Templeton Religion Trust.

Notes

¹ <https://indiakanon.org/doc/163639357/> (accessed on 21 April 2021).

² *Ibid.*, (p. 4).

³ (Dhavan and Nariman 2000, p. 259).

⁴ (Galanter 1998, p. 278).

⁵ For a detailed discussion of the institutional development of India's regulatory apparatus vis-à-vis Hinduism, see the article by Chad M. Bauman entitled "Litigating the Limits of Religion: Minority and Majority Concerns about Institutional Religious Liberty in India," in this issue.

⁶ *Ibid.*, p. 280.

- 7 (Galanter 1998).
- 8 *Satri Yagnpurshadji And Others Vs. Muldas Brudardas Vaishya and Another*. Supreme Court of India. 14 January 1966. Chief Justice P Gajendragdkar. <https://indiankanoon.org/doc/145565/> (accessed on 17 April 2021).
- 9 (Galanter 1998, p. 281).
- 10 Ibid., para. 9.23.
- 11 Dhavan. Religious freedom in India. p. 253.
- 12 <https://indiankanoon.org/doc/163639357/paragraph14.3> (accessed on 21 April 2021).
- 13 <https://indianexpress.com/article/opinion/columns/sabrimala-gay-rights-adultery-supreme-court-constitution-liberty-without-statism-chandrachud-5380460/> (accessed on 15 April 2021).
- 14 Ibid.
- 15 https://www.humanrights.dk/sites/humanrights.dk/files/media/document/_%2019_02922-22%20freedom_of_religion_or_belief_gender_equality_and_the_sustainable_development_%20fd%20487747_1_1.PDF (accessed on 15 April 2021).
- 16 The research conducted in late 2020 and early 2021 was commissioned by a European government to assess the impact of the current COVID-19 pandemic on vulnerable populations, including minority and Dalit communities in India. Due to the highly sensitive nature of the research, including increasing limitations on academic work on religion and religious behavior in India, neither the donor government nor the names of the researchers can be published. The study provided a crucial insight into the devastating impact of the pandemic on members of the marginalized Hindu majority community in the two sample sites in South India.
- 17 <https://www.organiser.org/Encyc/2020/4/27/TN-Govt-Forces-Hindu-temples-to-contribute-to-CM-Relief-fund-but-showers-largesse-on-Muslims-during-Ramzan.html> (accessed on 21 April 2021).
- 18 Ibid. (accessed on 21 April 2021).
- 19 <https://theprint.in/india/tirupati-temple-to-remain-open-despite-743-staff-members-testing-covid-positive/478679/> (accessed on 23 June 2021).
- 20 <https://www.hindustantimes.com/india-news/ttd-head-priest-seeks-temporary-closure-of-tirumala-temple-as-covid-19-cases-rise-demand-gets-rejected/story-D35BRP7bKVy9ec5lmTGAjN.html> (accessed on 22 June 2021).
- 21 <https://www.hindustantimes.com/india-news/tirumala-temple-stays-open-amid-curbs-101621191487518.html> (accessed on 23 June 2021).
- 22 (Galanter 1971, pp. 467–87). JSTOR, www.jstor.org/stable/1398174 (accessed on 24 June 2021).
- 23 See Section 8 in this article for more information.
- 24 <https://www.thehindu.com/news/national/tamil-nadu/chief-minister-likely-to-head-advisory-panel-for-big-temples/article34920035.ece> (accessed on 22 June 2021).
- 25 Chief Minister of Uttar Pradesh Yogi Adityanath televised his presence at the Ram temple grounds in Ayodhya and transferred the Ram Lalla idol to the new site. For more, see <https://www.thehindu.com/news/national/other-states/up-chief-minister-adityanath-shifts-ram-idol-amid-lockdown/article31160225.ece> (accessed on 20 April 2021).
- 26 https://play.google.com/store/apps/details?id=com.kalpnik.vrdevotee&hl=en_IN&gl=US (accessed on 15 April 2021).
- 27 <https://www.canvas8.com/blog/2020/september/hindu-devotion-app.html> (accessed on 15 April 2021).
- 28 <https://frontline.thehindu.com/the-nation/puja-in-the-time-of-pandemic/article32416394.ece> (accessed on 15 April 2021).
- 29 (Madan 1991, p. 405).
- 30 (Nehru 1959, p. 26).
- 31 (Embree 1993, pp. 165–82).
- 32 (Grewal 1989, p. 665).
- 33 (Nehru 1959, p. 72).
- 34 (Nehru 1959, p. 383).
- 35 Ibid.
- 36 (Embree 1993, pp. 165–82).
- 37 (Radhakrishnan 1955, p. 202).
- 38 (Goulet 1974, p. 481).
- 39 BBC interview with (Rajagopal 2001).
- 40 Rashtriya Swayamsevak Sangh—a Hindu nationalist paramilitary organization.
- 41 (Rao 2011, p. 90–105).
- 42 (Mankekar 1999).
- 43 A recent book, *Digital Hinduism*, edited by Xenia Zeiler, explores how Hinduism is expressed in the digital sphere and how Hindus utilize digital services for worship (Zeiler 2020).

- 44 (Scheifinger 2008, pp. 233–49).
- 45 Puja is a form of worship in which an individual experiences a moment of connection with the deity, usually through a visual interaction with the image of the god.
- 46 (Steinberger 2018).
- 47 (Iyer 2018).
- 48 (Iyer 2018, p. 240).
- 49 (Cnaan 2006).
- 50 (Finke and Martin 2012, p. 65). See also (Finke and Scheitle 2014, pp. 177–90; Finke and Stark 1992).
- 51 <https://www.thehindu.com/news/national/other-states/imams-association-asks-to-distribute-zakat-fund-among-hindus-and-muslims-in-bengal/article31449325.ece> (accessed on 2 July 2021).
- 52 (Sheth et al. 2019).
- 53 (World Health Organization 2020, p. 1).
- 54 (Saini 2016, p. 254).
- 55 (Keonig 1999, p. 353).
- 56 (VanderWeele 2017, pp. 8148–56).
- 57 (Varma 1986, pp. 13–34; Kulhara et al. 2000, pp. 62–68; Rao and Begum 1993, pp. 40–42).
- 58 (Avasthi et al. 2013, pp. 136–44).
- 59 (Christian Counselling Centre Vellore 2020).
- 60 (World Health Organization 2019, p. 30).
- 61 (Blank 2003).
- 62 See, e.g., (Engineer 1981, pp. 652–53).
- 63 (Puri 2016).
- 64 (Chari 2016).
- 65 (Mukundananda 2014).
- 66 (Rambachan 2014).

References

- Avasthi, Ajit, Natasha Kate, and Sandeep Grover. 2013. Indianization of Psychiatry Utilizing Indian Mental Concepts. *Indian Journal of Psychiatry* 55: 136–44. [CrossRef] [PubMed]
- Blank, Jonah. 2003. *Mullahs on the Mainframe: Islam and Modernity among the Daudi Bohras*. Karachi: Oxford University Press.
- Chari, Mridula. 2016. Make in India and Remove Sheldon Pollock from Murty Classical Library, Demand 132 intellectuals. Scroll.in. February 29. Available online: <https://scroll.in/article/804323/make-in-india-and-remove-sheldon-pollock-from-murty-classical-library-demand-132-intellectuals> (accessed on 14 June 2020).
- Christian Counselling Centre Vellore. 2020. Institute for Human Relations, Counselling and Psychotherapy. CCC India. Available online: <http://cccindia.org/research.htm> (accessed on 10 June 2020).
- Cnaan, Ram. 2006. *The Other Philadelphia Story: How Local Congregations Support Quality of Life in Urban America*. Philadelphia: University of Pennsylvania Press.
- Dhavan, Rajeev, and Fali Nariman. 2000. The Supreme Court and Group Life: Religious Freedom, Minority Groups, and Disadvantaged Communities. In *Supreme but Not Infallible: Essays in Honour of the Supreme Court of India*. Edited by Bhupinder N. Kirpal, Ashok H. Desai and Gopal Subramaniam. New Delhi: Oxford University Press, p. 259.
- Embree, Anslee T. 1993. Nehru’s Understanding of the Social Function of Religion. *India International Centre Quarterly* 20: 165–82. Available online: <http://www.jstor.org/stable/23003750> (accessed on 20 August 2020).
- Engineer, Asghar Ali. 1981. Dawoodi Bohra Reform Movement. *Economic and Political Weekly*, pp. 652–53. Available online: <https://www.jstor.org/stable/4369695?seq=1> (accessed on 14 June 2020).
- Finke, Roger, and Christopher P. Scheitle. 2014. Sources of Religious Pluralism: Revisiting the Relationship between Pluralism and Participation. In *Religions as Brands: The Marketization of Religion and Spirituality*. Edited by Jörg Stolz and Jean-Claude Usunier. Surrey: Ashgate.
- Finke, Roger, and Robert R. Martin. 2012. Religious Freedom and Conflict: A Review of the Evidence. Report Prepared and Funded by the USAID Conflict Management and Mitigation Office. Washington, DC, USA. Available online: <http://www.thearda.com/workingpapers/download/USAID%20Religion%20and%20Conflict%20Final%20Report%209-18-12.pdf> (accessed on 22 August 2020).
- Finke, Roger, and Rodney Stark. 1992. *The Churching of America, 1776–1990: Winners and Losers in Our Religious Economy*. New Brunswick: Rutgers University Press.
- Galanter, Marc. 1971. Hinduism, Secularism, and the Indian Judiciary. *Philosophy East and West* 21: 467–87. [CrossRef]

- Galanter, Marc. 1998. Hinduism, Secularism, and the Indian Judiciary. In *Secularism and Its Critics*. Edited by Bhargava Rajeev. New Delhi: Oxford University Press.
- Goulet, Denis. 1974. *A New Moral Order Studies in Development Ethics and Liberation Theology*. Maryknoll and New York: Orbis Books.
- Grewal, J. S. 1989. Jawaharlal Nehru on Secularization. *Proceedings of the Indian History Congress* 50: 663–80.
- Iyer, Sriya. 2018. *The Economics of Religion in India*. Cambridge: Belknap Press.
- Keonig, Harold G. 1999. Religion and Medicine. *The Lancet* 9166: 353. [CrossRef]
- Kulhara, Parmanand, Ajit Avasthi, and Avneet Sharma. 2000. Magico-religious Beliefs in Schizophrenia: A Study from North India. *Psychopathology* 33: 62–8. [CrossRef] [PubMed]
- Madan, T. N. 1991. *Religion in India*. New Delhi: Oxford University Press.
- Mankekar, Purnima. 1999. *Screening Culture, Viewing Politics: An Ethnography of Television, Womanhood, and Nation in Postcolonial India*. Durham: Duke University Press. [CrossRef]
- Mukundananda, Swami. 2014. Bhagavad Gita: Chapter 2, Verse 63. *Bhagavad Gita. The Song of God*. Available online: <https://www.holy-bhagavad-gita.org/chapter/2/verse/63> (accessed on 14 June 2020).
- Nehru, Jawaharlal. 1959. *The Discovery of India*. Garden City: Anchor Books, p. 26.
- Puri, Nikita. 2016. Murty Classical Library: Project Interrupted. *Business Standard*. March 13. Available online: https://www.business-standard.com/article/beyond-business/project-interrupted-116031101266_1.html (accessed on 14 June 2020).
- Radhakrishnan, Sarvepalli. 1955. *Recovery of Faith*. New York: Harper & Brothers.
- Rajagopal, Arvind. 2001. *Politics after Television: Hindu Nationalism and the Reshaping of the Public in India*. Cambridge: Cambridge University Press, Available online: <https://www.bbc.com/culture/article/20191022-the-tv-show-that-transformed-hinduism> (accessed on 20 August 2020).
- Rambachan, Anantanand. 2014. The Wendy Doniger Controversy and the Need for Hindu Theologians. *Dharma Civilization Foundation Blog*. July 17. Available online: <https://dcfusa.org/the-wendy-doniger-controversy-and-the-need-for-hindu-theologians/> (accessed on 21 August 2020).
- Rao, K. N., and Shamshad Begum. 1993. A Phenomenological Study of Delusions in Depression. *Indian Journal of Psychiatry* 35: 40–42. [PubMed]
- Rao, Ursula. 2011. 'Inter-public': Hindu Mobilization beyond the Bourgeois Public Sphere. *Religion and Society* 2: 90–105. [CrossRef]
- Saini, Anu. 2016. Physicians of Ancient India. *Journal of Family Medicine and Primary Care* 5: 254–58. [CrossRef] [PubMed]
- Scheifinger, Heinz. 2008. Hinduism and Cyberspace. *Elsevier* 38: 233–49. [CrossRef]
- Sheth, Arpan, Bhagwati Anant, Sanghavi Deval, and Srinivasan Srikrishnan. 2019. *India Philanthropy Report 2019*. Boston: Bain and Company, March 7, Available online: <https://www.bain.com/insights/india-philanthropy-report-2019/> (accessed on 22 August 2020).
- Steinberger, Samuel. 2018. Hindu Prayer Service? There's an App for That. *Christian Science Monitor*. May 18. Available online: <https://bit.ly/2H2AzM5> (accessed on 10 June 2020).
- VanderWeele, Tyler J. 2017. On the Promotion of Human Flourishing. *Proceedings of the National Academy of Sciences of the United States of America* 114: 8148–56. [CrossRef] [PubMed]
- Varma, K. V. 1986. Cultural Psychodynamics in Health and Illness. *Indian Journal of Psychiatry* 28: 13–34. [PubMed]
- World Health Organization. 2019. Suicide in the World: Global Health Estimate. Available online: <https://apps.who.int/iris/bitstream/handle/10665/326948/WHO-MSD-MER-19.3-eng.pdf> (accessed on 21 April 2021).
- World Health Organization. 2020. Constitution of the World Health Organization. In *Basic Documents*, 49th ed. Geneva: World Health Organization, p. 1.
- Zeiler, Xenia. 2020. *Digital Hinduism*. London and New York: Routledge.

Article

How Religion Contributes to the Common Good, Positive Criminology, and Justice Reform

Byron R. Johnson

Institute for Studies of Religion, Baylor University, Waco, TX 76798, USA; Byron_Johnson@baylor.edu

Abstract: This paper argues that religious freedom has consistently been linked to volunteerism and the work of faith-based individuals and organizations in addressing a variety of social problems including crime and delinquency, substance abuse treatment, offender rehabilitation, and prison reentry. Moreover, the emerging subfield of positive criminology is beginning to document the ways in which faith-based efforts are providing more positive and restorative approaches that tend to be effective in reducing crime and promoting prosocial outcomes. Indeed, religious interventions are proving to be some of the most innovative and consequential at a time when jurisdictions are faced with ever-tightening budgets. Moreover, the role of faith-based volunteers and even offender-led religious movements in the process of identity transformation and reform is particularly relevant and timely when there is such a widespread call for evidence-based approaches to justice reform.

Keywords: religion; freedom; volunteerism; prosocial; crime; positive criminology; desistance; identity transformation; rehabilitation

Citation: Johnson, Byron R.. 2021. How Religion Contributes to the Common Good, Positive Criminology, and Justice Reform. *Religions* 12: 402. <https://doi.org/10.3390/rel12060402>

Academic Editors: Timothy Shah and Nathan A. Berkeley

Received: 26 April 2021

Accepted: 21 May 2021

Published: 31 May 2021

Publisher's Note: MDPI stays neutral with regard to jurisdictional claims in published maps and institutional affiliations.



Copyright: © 2021 by the author. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

1. Religion and Volunteerism in Contemporary American Society

Volunteers make enormous contributions to civil society in the US (Putnam 2000; Putnam and Feldstein 2003). The nonprofit sector is a volunteer-rich resource and plays an increasingly important role in the engagement of local jurisdictions. This is particularly striking in the human services sector, where volunteers are able to provide social service delivery when federal, state, and local funding continues to shrink.

We know that many Americans volunteer and that volunteers make critical contributions to American civil society. For example, volunteers provide a host of community services that the formal sector is either unwilling or unable to effectively provide, such as remedial education, sporting and recreational programs, medical and health services, mentoring of at-risk youth, shelters for the homeless, substance abuse counseling, offender treatment programs, educational programs for prisoners, and prisoner reentry initiatives.

According to a study by the Corporation for National and Community Service (CNCS), more Americans than ever are volunteering.¹ The 2018 Volunteering in America study found that more than 77 million adults volunteered their time through an organization in the previous year. These extraordinary figures do not even account for the millions of Americans—some 43 percent—who voluntarily serve and support friends and family, or more than half of American adults (51 percent) who do favors for their neighbors—what might be called acts of “informal volunteering”. In sum, volunteers provide a staggering economic benefit to American society.

Volunteering is also a key ingredient in the formation of what is often called social capital—social connections that build trust and engagement in communities (Putnam 1995). Robert Putnam believes that communities with high social capital are more likely to exhibit trust among their inhabitants, thus establishing a more cohesive community that also reaps economic as well as social benefits (Putnam 2000).

Americans not only give financially, but they are also generous with their time. Volunteers donate to charity at considerably higher rates as nonvolunteers. For example, they

are more likely to talk to neighbors, contribute to civic groups, invest in local communities, participate in public meetings, help their neighbors, and participate in elections.

What factors predict the likelihood that one will volunteer in the first place, though? As it turns out, religious affiliation and participation is one of the key factors predicting volunteer engagement, both in sacred and secular organizations. In sum, the more religious people happen to be, the more likely they are to volunteer (Hustinx et al. 2014).

Joseph Johnston found that increased religiosity is associated with increased service to others (Johnston 2013). This research provides longitudinal evidence that religious practices were linked to increased volunteering over time. In fact, volunteer work in faith-based associations improved the chances that volunteers would participate in additional volunteering activities (Johnston 2013).

Utilizing data from more the US Congregational Life Survey, Jennifer McClure examined factors of congregational life in order to determine which were correlated with adherents offering assistance to nonfamily members (McClure 2013). The most reliable relationship to providing social support came from involvement in private devotions. Those spending elevated time in prayer, meditation, or Bible reading were more likely to provide a loan, care for those in need, and help people to find employment (McClure 2013).

Americans who volunteer for religious groups are overwhelmingly more likely to also volunteer for secular groups than those who do not volunteer for religious groups, according to Robert Putnam of Harvard University and David Campbell of the University of Notre Dame.

I recently interviewed a group of faith-motivated volunteers who regularly travel to a correctional facility in a rural area where they work with prisoners in a faith-based trauma and healing program, supported by the American Bible Society. The volunteers were all senior citizens, and some of them would drive several hours just to get to the correctional facility. They stayed in a local hotel for several days a week, working with prisoners before driving home. The expenses of this weekly routine were covered by the volunteers themselves. Without exception, the volunteers claimed that they were the real beneficiaries of working with these prisoners.²

According to Putnam and Campbell as well as other researchers, a major reason for the higher levels of volunteering among religious people is the vibrant social systems and linkages that exist in congregations. Churches, synagogues, and mosques are unique communities that encourage volunteerism and other-focused outreach and introduce individuals to secular as well as religious opportunities to serve others. This service creates social bonds which make it more likely that people will respond to volunteering invitations. Moreover, these connections often reach well beyond houses of worship. In fact, there is support for the notion that for nonreligious people, having strong connections to those that are highly active in congregational life increases the likelihood that they will volunteer (Lim and MacGregor 2012; Merino 2013). This is important because volunteerism means a great deal to America in ways that are substantial as well as positive, and if religion can help to multiply volunteerism, society will benefit from this good will.

Out of a concern for the welfare of others, religion can be seen as a catalyst that stimulates or generates volunteers. Whether through retreats, classes, small groups, camps, church-sponsored volunteer work, or a host of other related group functions, such events link people to networks of social support that are often quite meaningful. We now have a mounting body of evidence suggesting social support in houses of worship is associated with better coping skills (Krause 2010), increased life expectancy (Brown et al. 2003; Krause 2006a), stress reduction (Krause 2006b), and better self-reported health (Krause 2010). In fact, according to Harvard scholar Robert Putnam, congregations are storehouses of reciprocity that yield social capital³.

If Putnam is right, congregations could logically be understood as fertile training ground for civic engagement and much more. More recently, Putnam has extended this argument by stating that people connected to congregations are more pleased with their lives as a result of attending religious services more frequently and building these vibrant

social networks, thereby building a unique sense of belonging to a faith-based community (Putnam and Campbell 2010). Putnam argues that these faith-based networks generate unique effects that cannot be explained in any other way. Simply put, these faith-motivated networks of support are responsible for significant and beneficial outcomes (Lim and Putnam 2010).

In an important study using multiple national datasets, Stephen Monsma reports that religiously committed individuals who give to philanthropic causes and volunteer tend to be more civically engaged (Monsma 2007). Moreover, the highly religious are also more likely to volunteer for secularly based causes than secular respondents are to support religiously based community causes. Finally, the most religiously involved are significantly more likely to display behavior that reflects responsible citizenship.

This study seems to challenge stereotypes of religious volunteers in that it shows it is the religious among us, not the irreligious, who are most likely to volunteer. Evangelical Protestants—whose growing influence some have argued is a concern to democracy—are more likely to volunteer and give than are the nonreligious. In general, religiously active people tend to be more involved in features of civic responsibility than do the irreligious⁴.

In sum, religious freedom has been catalytic to the growth of religion in America, which continues to be linked to other-mindedness and concern for one's neighbor. A tangible expression of this concern is manifested in the varied and ubiquitous acts of service provided everyday by countless volunteers in America. Putnam's calculation of the contribution of religious congregations to America's overall storehouse of social capital and good will—coupled with a growing body of evidence on the important role of religiously motivated volunteers—is truly immense.

2. The Role of Religion in Prosocial Behavior

Prosocial behaviors are those generally intended to help others. Prosocial behavior is recognized by a concern for the feelings and welfare of other people. Behaviors that can be described as prosocial include not just feeling empathy and concern for others, but actually behaving in ways that benefit or help others. In *The Handbook of Social Psychology*, C. Daniel Batson explains that prosocial behaviors refer to "a broad range of actions intended to benefit one or more people other than oneself—behaviors such as helping, comforting, sharing and cooperation." (Batson 2012).

In recent years, the term prosocial behavior has come to mean far more than the opposite of antisocial behavior. As criminologists, we have argued that the field of criminology has been preoccupied with only "half" of a field⁵. Its general focus has largely been limited to understanding antisocial behavior, with little focus on prosocial activities. That is, criminologists tend to ask why people commit crimes; they rarely ask why people do good deeds. Rather than neglecting "half" of human behavior, we think criminologists should also be interested in studying a number of important questions that center on positive or prosocial factors. For example, positive criminology is interested in understanding: (1) Why do the vast majority of Americans choose to obey rather than break laws? (2) Why do most people raised in communities of disadvantage turn out to be not only law-abiding, but also good citizens? (3) How is it that offenders who previously exhibited antisocial patterns of behavior can undergo transformations that result in consistent patterns of positive behavior, accountability, and other-mindedness? (4) What is the role of religious communities in not only guiding individual behavior in positive ways, but the role of faith-motivated groups and organizations in fostering prosocial activities?

Involvement in religious organizations and faith-based groups can enhance the development of and assimilation into personal networks that provide both emotional and social support (Johnson et al. 2000a, 2000b; Jang and Johnson 2004; Putnam and Campbell 2010). When these networks overlap with other networks, it is reasonable to expect these networks will not only restrict illegal behavior but may also protect one from the effects of living in underprivileged areas (Krohn and Thornberry 1993). In other words, an individual's integration into a community-based religious network may lessen the effects of

other factors that might otherwise lead to illegal behavior. Thus, religious networks can protect individuals from the deleterious effects of negative stimuli (Johnson 2006; Johnson and Siegel 2006a).

This influence may help us to understand why church attendance among youth from deprived communities makes them less likely to abuse drugs than comparable youth from non-urban settings who attend church less often or do not attend at all (Johnson and Siegel 2006b). Relatedly, prior research has assessed the intergenerational influence of religion and concludes parental religious dedication is a protective factor for crime (Regnerus 2003; Petts 2009). Taken together, the research literature confirms that the effect of attendance is significant and unique. Either through the networks of support provided, the learning of self-control through the teaching of religious moral beliefs, or the condemning of illegal or inappropriate behavior, religious service attendance appears to be quite consequential.

Over the last several decades, scholars have produced an emerging research literature that demonstrates the many ways in which religious activities and involvement are connected to beliefs that are meaningful for a number of important outcomes. These include overall flourishing and wellbeing (VanderWeele 2017; Makridis 2019), social integration and support (Lim and Putnam 2010), delivery of social services to disadvantaged populations (Cnaan 2008; Johnson and Wubbenhorst 2017), mental and physical health (Koenig 2015; Rosmarin and Koenig 2020), forgiveness (McCullough et al. 2005; McCullough 2008), voluntary activities (Wilson and Musick 1997; Lam 2002), crime reduction (Johnson 2011; Kelly et al. 2015), prisoner rehabilitation (Hallett et al. 2016), family relations (Mahoney et al. 2003; Edgell 2013), substance use/abuse (Bahr and Hoffmann 2008, 2010), sobriety (Lee et al. 2017), healthcare utilization (Benamins and Brown 2004), coping strategies for stressful conditions (Park 2005; Ellison and Henderson 2011; Makridis et al. 2020), and even longevity/mortality (Hummer et al. 1999; VanderWeele et al. 2017). Consequently, efforts to restrict religious freedom will unnecessarily inhibit the effort of faith-motivated volunteers, acts of service, reduce social capital, and come with a significant cost to society.

We live in an age when discussions about inequality and discrimination and the need to correct injustice in all its manifestations are clearly front and center in contemporary society. Examples of injustice receive ample attention—and it is good that they do. Receiving far less attention, however, is the empirical evidence documenting that many people are working diligently in an effort to remedy many of the injustices and social problems found in our society. It is one thing to complain about injustice, inequality, or various social problems; it is quite another to intentionally work to reduce or even eliminate these problems. Stated differently, there are those who spend a great deal of time *looking* for justice, while there are others who spend a great deal of time quietly *doing* justice. Oswald Chambers provides a critical insight when it comes to the issue of justice. He argues that people who *look* for justice can easily become sidetracked by any number of distractions. He goes on to invoke the teaching of Jesus from the Sermon on the Mount, suggesting that a better way of correcting injustice is to simply give or do justice at every opportunity. Chambers puts it this way: “Never look for justice in this world, but never cease to give it.” (Chambers 2017). One can make a compelling argument that this is the very essence of what countless volunteers—often motivated by faith—do each day without any fanfare.

3. Religious Freedom and Positive Criminology

A relatively new subfield known as “positive criminology” (Ronel and Elisha 2011) touts more restorative tactics—building positive social linkages, spirituality, service, honesty, and identity transformation—that tend to be more efficacious than more traditional and punitive approaches (Ronel and Segev 2015). From this perspective, correctional systems that promote virtue development ought to be examined seriously by correctional decision makers⁶. Although examples of this are not common, a tangible and exemplary initiative can be found at the Louisiana State Penitentiary (Angola). This facility has had a reputation for being one of the most troubled and unethical correctional facilities in the US. However, Angola is recognized today for the many inmate-led congregations within

the institution and a fully operational seminary. In fact, adjudicated juveniles from New Orleans are being given the option to serve their sentence at Angola and to participate in an inmate-led mentoring project.

Research now confirms that even modest interventions such as visitation can help to reduce recidivism. One study sought to determine if visits from community volunteers—specifically clergy and mentors—had any influence on recidivism by examining 836 offenders released from different prisons in Minnesota. The results indicated that community visits significantly reduced all three measures of reoffending (rearrest, reconviction, reincarceration). The positive effect on recidivism increased as the proportion of community visits to all visits increased. The findings suggest that visitation by community volunteers should be considered a programming resource to be used with offenders who otherwise lack social support (Duwe and Johnson 2016).

Angola is America's largest maximum-security prison and is a working prison farm housing over 6300 inmates. It inhabits the property of a former slave plantation. Approximately 75% of inmates currently serving time at Angola are serving life sentences with no hope for parole (Louisiana Department of Corrections 2015). The average sentence length for prisoners not serving life sentences was 92.7 years in 2012. For many decades, most guards at Angola were convicts themselves. The practice of using inmates as guards saved money but also contributed to the violence and low morale of prisoners at Angola over many decades. The corruption, brutality, and violence heightened Angola's notoriety for being the "Bloodiest Prison in America."

In 1995, Burl Cain was appointed the new warden at Angola. Knowing the dismal history and challenge of this under-resourced and notorious prison, Cain knew it was necessary to do something dramatically different to put Angola on a more humane and prosocial trajectory. His idea was a novel one: establish a Bible College as a means of providing educational programs for prisoners and of giving them another chance to make something positive out of their life. Cain was optimistic that a prison-based seminary could successfully train prisoners to become ministers who over time would become effective change agents in the prison—ultimately replacing a culture of violence and corruption with a culture that was redemptive, hopeful, and personally transformative.

Later that year, Warden Cain was able to convince leaders of the New Orleans Baptist Theological Seminary to open a satellite campus within the walls of the Louisiana State Penitentiary. The building housing the Angola seminary was paid for with private donations. While legal doctrine has long rejected the notion that inmates have anything positive to contribute to the management of prisons, the Angola prison seminary and its unique inmate minister program operation challenge this notion.

In 2012, we led a research team in launching a major five-year study of prisoners at Angola, especially those participating in the Bible college. Previous research on religion within prisons had focused largely on faith-based programs administered by faith-motivated volunteers and generally confirms that these programs can increase prosocial behavior inside of prison and even reduce recidivism following release from prison (Johnson 2011). However, very little was known about what happens when inmates form and lead their own religious groups, interpret theology from inside of prison, and practice their faith communally inside of the cellblocks. Our research culminated in a book entitled *The Angola Prison Seminary: Effects of Faith-Based Ministry on Identity Transformation, Desistance and Rehabilitation*. (Hallett et al. 2016).

Our research team analyzed survey data from 2200 inmates at the Louisiana State Penitentiary and conducted more than 100 life-history interviews of inmates and staff at this maximum-security prison. We examined the role of religious education and involvement in inmate-led religious congregations that were central to transforming prisoners and the housing units where they reside.

Utilizing a mixed-methods approach, a series of studies were produced that document the process of identity transformation and the catalytic role that religion plays in this process. We also found significant linkages between participation in the prison seminary

and inmate-led churches on disciplinary convictions, crime desistance, rehabilitation, and prosocial behavior within the prison environment. Most importantly, the research points to the central role of inmate-led efforts to bring about these salutary findings.⁷ The prison seminary graduates who had now become inmate ministers led most of Angola's roughly two-dozen autonomous churches. Their ministry, however, transcends these formal gatherings, as their elevated status also enables them to enjoy a unique freedom of movement to minister among their peers on a daily basis. As one Inmate Minister described it, we have "the opportunity to actually practice what we preach. It gives us the opportunity to actually *be* the church instead of just *having* church." This sense of service is the hallmark of an authentic faith that is common among the inmate ministers that we observed.

Ethnographic accounts of inmate graduates of Angola's unique prison seminary program suggest that inmate ministers assume a number of pastoral service roles throughout the prison. Inmate ministers lead their own congregations and serve in many different capacities, including hospice, cellblock visitation, tier ministry, officiating inmate funerals, and through tithing that supports indigent prisoners. Despite the fact that most will die in Angola, inmate ministers are able to find purpose for their lives. The inmate ministers assist others in finding that meaning, thereby providing them with the human grace and dignity they may have thought they lost or perhaps never had.

Faith helps prisoners to care about others and display their humanity on a daily basis. By choosing a better self, inmates are able to transform their lives. Several themes of positive criminology emerge from inmate narratives: (a) the importance of humane treatment of prisoners by correctional staff, (b) the value of building trusting relationships for prosocial modeling and improved self-perception, (c) repairing harm through faith-based intervention, and (d) spiritual practice as a roadmap for building a constructive self-identity and social integration among prisoners⁸.

Though research on how inmates can help other prisoners to change is uncommon, the Field Ministry program within the Texas Department of Criminal Justice is an exemplar in this regard. The program enlists inmates who have graduated from a prison-based seminary to work as "Field Ministers", serving other inmates in various capacities (Duwe et al. 2015). Colleagues and I have recently examined whether exposure to Field Ministers is inversely related to antisocial factors and positively to prosocial ones at three maximum-security prisons where the Field Ministry program operates. Preliminary results indicate that inmates exposed to Field Ministers more frequently and for a longer period of time tend to report lower levels of criminological risk factors, aggressiveness, and higher levels of virtues, human agency, religiosity, and spirituality. We find that prisoners who are the beneficiaries of the inmate-led field ministry help other prisoners to make positive and prosocial changes. We conclude that inmate ministers play an important role in fostering virtuous behavior (Jang et al. 2018b) and achieving the goal of offender rehabilitation (Hallett et al. 2016). Moreover, we find that some offenders in prison should be viewed as potential resources waiting to be reformed with the help of other offenders (Jang et al. 2018a).

Furthermore, there is empirical evidence that faith-based prison programs are cost-effective. Duwe and Johnson found that participation in a faith-based prisoner reentry program that has operated within Minnesota's prison system since 2002 is effective in lowering recidivism. The program relies heavily on volunteers, and the program costs are privately funded, with no additional costs to the State of Minnesota incurred. The study focused on estimating the program's benefits by examining recidivism and post-release employment. The findings showed that during its first six years of operation in Minnesota, InnerChange produced an estimated benefit of \$3 million, which comes to nearly \$8,300 per participant (Duwe and Johnson 2013).

4. Offender-Led Religious Movements and Positive Criminology

A 2017 book and documentary film, both titled *If I Give My Soul: Faith Behind Bars in Rio de Janeiro*, argue that inmate-led Pentecostalism thrives inside of prison because it offers prisoners—mostly poor, darker-skinned young men—a platform to live moral and dignified lives in a social context that treats them as less than human, or “killable” (Johnson 2017). Additionally, a recent study conducted in El Salvador by scholars at Florida International University concluded that the only realistic hope for incarcerated MS-13 gang members to desist from a life of crime and violence is by means of a conversion to Christianity and subsequent involvement in Evangelical or Pentecostal churches (Maslin 2018). This initial study is intriguing, but more rigorous and systematic research is necessary to understand how, if at all, inmate-led religious interventions may be linked to positive and consequential outcomes (Cruz et al. 2018).

In the book *The Wounded Healer* (1979) Henri Nouwen states, “the great illusion of leadership is to think that man can be led out of the desert by someone who has never been there” (Nouwen 1979). This line of reasoning would seem to suggest that prisoners may well be the most appropriate people to aid other inmates in the process of being reformed. Who is more suited to challenge, affirm, or relate to a prisoner than another prisoner? Similarly, offenders participating in 12-step programs are essentially working from a similar “wounded healer” paradigm—where addicts help other addicts to stay sober through various social support acts and acts of service. Perhaps there is a unique authenticity enjoyed by offenders that enables them to be connected to other offenders in ways that free-world people cannot.

A new line of research is necessary that will focus specifically on religious groups indigenous to the cellblocks—what we are calling Offender-led Religious Movements (ORMs). ORMs have the capacity to provide participants with a strong identity, an alternative moral framework, and a set of embodied practices that emphasize virtue and character development. Though there are significant roadblocks to the proliferation of ORMs, this innovative approach to rehabilitation and reform holds significant potential to transform the character of not only individual prisoners, but particular cellblocks or housing units, and possibly entire correctional facilities. Though nearly invisible to scholars and co-religionists on the outside, studying ORMs may provide rich insight into how virtue and character are developed inside of correctional facilities through inmate-led religious groups. This kind of research will help scholars and practitioners to understand whether ORMs can provide a path for prisoners to experience an identity transformation that is consistent with the need to rehabilitate offenders. Moreover, this line of research will shed light on how, if at all, ORMs emphasize or facilitate prosocial behavior, spiritual awakening, service to others, prayer, perseverance, and forgiveness. It will address questions such as: How and why do ORMs emerge? What character traits and virtues are promoted by ORMs? How are these values and behaviors developed by prisoners participating in ORMs? What impact do ORMs have on the broader prison environment? How can social scientists measure the impact of ORMs on individual offenders, housing units, and the prison environment more generally?

5. Implications for Justice System Reform

Today, there is widespread consensus on the need for criminal justice reform. Preliminary research into offender-led religious movements suggests that these movements may be a key factor in rethinking some of our approaches to correctional programs and rehabilitation. Obviously, we need empirical research to confirm the nature, prevalence, and consequences of these movements. Are ORMs isolated or quite common? Are these inmate-led interventions effective? If so, can ORMs be replicated in different jurisdictions and correctional environments?

The question regarding potential replication of ORMs, however, presents policy makers with a dilemma. ORMs, such as those led by inmate pastors at Angola, pose a legal challenge to correctional agencies. The well-documented trusty system dating back to the

early 1900s allowed inmates to wield authority over prisoners. Angola was one of many prisons where correctional staff designated select inmates to control and administer physical punishment to other inmates based on a hierarchy of power. The legal case of *Gates v. Collier*⁹ ended the flagrant abuse of inmates under the trusty system at the Mississippi State Penitentiary (Parchman) that had existed for many decades. Other states using the trusty system were also forced to do away with the trusty system due to this ruling. Following the *Gates v. Collier* decision, states adopted policies preventing prisoners from holding positions of authority over other prisoners.

This legal decision and subsequent policy change have made it virtually impossible to organize and establish inmate-led congregations. In spite of this, at least twenty states have launched prison seminaries. Nonetheless, Louisiana remains the only state so far to allow inmates to form and lead their own religious congregations. Thus, Angola is the only prison we know of that currently allows inmate-led congregations to exist.

Interviewing inmate pastors at Angola, as well as correctional officers and other prison administrators, it is apparent that inmate ministers do not have “authority” over other inmates. A more accurate description is that ministers simply serve other prisoners. Indeed, the varied acts of service that our research uncovered at Angola suggest that inmate pastors represent anything but abusive authority. As one Inmate Minister expressed to us, “[M]y status as Inmate Minister makes me even more of a servant to others, to give my time to the advancement of God’s mission, which is the comforting of his people: ‘Feed my sheep.’” (Hays et al. 2018). In inmate-led churches, inmate ministers surely *lead* other inmates, but how and what they practice is actually “servant leadership”, where the leader’s main goal is to *serve*, not control, dominate, or lord authority over others.

The current push for criminal justice reform has brought together leaders from both political parties. However, solutions to criminal justice reform often remain difficult to find because of budgetary constraints. Research in the subfield of positive criminology suggests restorative approaches—including those that foster social connectedness and support, service to others, spiritual experience, personal integrity, and identity change—may well be more helpful than long-established approaches to punishment (Ronel and Elisha 2011).

Consistent with restorative justice practices, these approaches seek to develop active responsibility on the part of individuals who have grown accustomed to a lifestyle of irresponsibility (Braithwaite 2009). From this perspective, correctional practices should be devised to promote virtue. Consequently, the goal of justice or punishment should not be to inflict pain or exact revenge but rather to reconstruct and reform individuals (Johnson et al. 2016).

Should offender-led religious movements continue to be found to foster rehabilitation and identity transformation, as well as recidivism reduction, there may be significant potential for ORMs to make prisons and communities safer, and to do so as a cost-effective alternative. Thus, it would seem to make sense to pay more attention to these kinds of faith-based approaches and to promote them as potential aids to the common good. Policy makers and practitioners should have access to rigorous research which evaluates the value of ORMs in addressing topics such as rehabilitation, drug treatment, educational and vocational programs, prisoner reentry, and criminal justice reform more broadly.

The ubiquitous nature of religious programs within correctional facilities provides an opportunity to better employ these positive criminology approaches. In addition, programs such as AA provide a platform and ready-made environment to make addiction treatment more accessible to prisoners in various kinds of correctional facilities. In fact, AA is already in existence in most prisons. Religious activities could easily be extended to allow inmates time and instruction for completing the steps.

Faith-based activities in prisons are very popular. For example, beyond work, education, or vocational training, religious activities attract more participants than any other personal enrichment program offered inside of a prison (Beck et al. 1993). In addition, faith-motivated volunteers and programs already supply the biggest percentage of volunteers that come into prisons with the intention of working with prisoners in ways that

are restorative (Duwe and Johnson 2016). These positive criminology programs advance increased spirituality that is linked to greater personal change when combined with service and represent our best chance of achieving evidence-based solutions to the problem of crime and offender rehabilitation.

Funding: This publication received no external funding.

Conflicts of Interest: The author declares no conflict of interest.

Notes

- ¹ 2018 *Volunteering in America*. Corporation for National and Community Service. Washington, DC.
- ² Interview with volunteers took place at the Riverside Regional Jail, in Prince George County, Virginia, on 14 January 2020.
- ³ Social capital is the effective functioning of social groups through interpersonal relationships, a shared sense of identity, a shared understanding, shared norms, shared values, trust, cooperation, and reciprocity. Social capital is a measure of the value of resources, both tangible (e.g., public spaces, private property) and intangible (e.g., actors, human capital, people), and the impact that these relationships have on the resources involved in each relationship, and on larger groups. It is generally seen as a form of capital that produces public goods for a common purpose. Social capital has been used to explain the improved performance of diverse groups, the growth of entrepreneurial firms, superior managerial performance, enhanced supply chain relations, the value derived from strategic alliances, and the evolution of communities.
- ⁴ Ibid.
- ⁵ See the mission of the Baylor ISR's Program on Prosocial Behavior: Criminology has always been only "half" of a field. Its focus is limited to antisocial behavior, with almost no attention ever given to prosocial activities. That is, criminologists ask why people do, or do not, commit crimes; they rarely ask why people do, or do not do, good deeds. The Program on Prosocial Behavior emphasizes the neglected "half" of human behavior. For example, why do so many people generously give money to help those in need? Or, why do most of the people reared in 'bad' neighborhoods turn out not only to be law-abiding but to be good citizens? Indeed, how are people transformed from antisocial patterns of behavior to positive patterns? In keeping with the overall mission of ISR, the role of religion in promoting prosocial behavior will be the central concern. Not only the role of religiousness in guiding individual behavior but the role of faith-based groups and organizations in fostering prosocial activities. <https://www.baylorisr.org/programs-research/program-on-prosocial-behavior/> (accessed on 27 May 2021).
- ⁶ For a creative example, see (Cullen et al. 2001).
- ⁷ Ibid.
- ⁸ Ibid.
- ⁹ *Gates v. Collier*, 501 F.2d 1291, was a landmark case decided in the US federal court (in 1974) that brought an end to the Trusty system and the flagrant inmate abuse that accompanied it at Mississippi State Penitentiary in Sunflower County, Mississippi.

References

- Bahr, Stephen J., and John P. Hoffmann. 2008. Religiosity, Peers, and Adolescent Drug Use. *Journal of Drug Issues* 38: 743–69. [CrossRef]
- Bahr, Stephen J., and John P. Hoffmann. 2010. Parenting style, religiosity, peers, and adolescent heavy drinking. *Journal of Studies on Alcohol and Drugs* 71: 539–43. [CrossRef]
- Batson, C. Daniel. 2012. A History of Prosocial Behavior Research: C. Daniel Batson. In *Handbook of the History of Social Psychology*. Edited by Arie W. Kruglanski and Wolfgang Stoebe. London: Psychology Press, chp. 12.
- Beck, Allen, Darrell Gillard, Lawrence Greenfeld, Caroline Harlow, Thomas Hester, Louis Jankowski, Tracy Snell, James Stephan, and Danielle Morton. 1993. *Survey of State Prison Inmates, 1991*; Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, NCJ-136949.
- Benjamins, Maureen R., and Carolyn Brown. 2004. Religion and preventative health care utilization among the elderly. *Social Science & Medicine* 58: 109–18.
- Braithwaite, John. 2009. Restorative Justice. In *International Handbook of Criminology*. Edited by H. J. Schneider. Berlin: Walter de Gruyter, pp. 497–506.
- Brown, Stephanie L., Randolph M. Neese, Amiram D. Vinokur, and Dylan M. Smith. 2003. Providing social support may be more beneficial than receiving it: Results from a prospective study of mortality. *Psychological Science* 14: 320–27. [CrossRef]
- Chambers, Oswald. 2017. *My Utmost for His Highest*. Classic Edition. (see June 27th entry). Grand Rapids: Our Daily Bread Publishing.
- Cnaan, Ram A. 2008. *The Invisible Caring Hand: American Congregations and the Provision of Welfare*. New York: NYU Press.
- Cruz, Jose M., Jonathan D. Rosen, Luis E. Amaya, and Yulia Vorobyeva. 2018. *The New Face of Street Gangs: The Gang Phenomenon in El Salvador*; Report presented to: The Bureau of International Narcotics and Law Enforcement Affairs. Washington, DC: U.S. Department of State.
- Cullen, Francis T., Jody L. Stmdt, and John F. Wozniak. 2001. The Virtuous Prison: Toward a Restorative Rehabilitation. In *Contemporary Issues in Crime and Criminal Justice: Essays in Honor of Gilbert Geis*. Edited by Henry N. Pontell and David Shichor. Upper Saddle River: Prentice Hall, pp. 265–86.

- Duwe, Grant, and Byron R. Johnson. 2013. Estimating the Benefits of a Faith-Based Correctional Program. *International Journal of Criminology and Sociology* 2: 227–39. [\[CrossRef\]](#)
- Duwe, Grant, and Byron R. Johnson. 2016. The Effect of Prison Visits from Community Volunteers on Offender Recidivism. *The Prison Journal* 96: 279–303. [\[CrossRef\]](#)
- Duwe, Grant, Byron R. Johnson, Michael Hallett, Joshua Hays, and Sung J. Jang. 2015. Bible College Participation and Prison Misconduct: A Preliminary Analysis. *Journal of Offender Rehabilitation* 54: 371–90. [\[CrossRef\]](#)
- Edgell, Penny. 2013. *Religion and Family in a Changing Society*. Princeton: Princeton University Press.
- Ellison, Christopher G., and Andrea K. Henderson. 2011. Religion and Mental Health: Through the Lens of The Stress Process. In *Toward a Sociological Theory of Religion and Health*. Edited by Anthony Blasi. Leiden: Brill, pp. 11–44.
- Hallett, Michael, Joshua Hays, Byron R. Johnson, Sung J. Jang, and Grant Duwe. 2016. *The Angola Prison Seminary: Effects of Faith-Based Ministry on Identity Transformation, Desistance and Rehabilitation*. New York: Routledge Press.
- Hays, Joshua, Michael Hallett, Byron R. Johnson, Sung J. Jang, and Grant Duwe. 2018. Inmate Ministry as Contextual Missiology: Best Practices for America's Emerging Prison Seminary Movement. *Perspectives in Religious Studies* 45: 69–79.
- Hummer, Robert, Richard G. Rogers, Charles B. Nam, and Christopher G. Ellison. 1999. Religious Involvement and US Adult Mortality. *Demography* 36: 273–85. [\[CrossRef\]](#) [\[PubMed\]](#)
- Hustinx, Lesley, Johan von Essen, Jacques Haers, and Sara Mels. 2014. *Religion and Volunteering: Complex, Contested, and Ambiguous Relationships*. Berlin/Heidelberg: Springer.
- Jang, Sung J., and Byron R. Johnson. 2004. Explaining Religious Effects on Distress Among African Americans. *Journal for the Scientific Study of Religion* 43: 239–60. [\[CrossRef\]](#)
- Jang, Sung J., Byron R. Johnson, Joshua Hays, Michael Hallett, and Grant Duwe. 2018a. Religion and Misconduct in Angola Prison: Conversion, Congregational Participation, Religiosity, and Self-identities. *Justice Quarterly* 35: 412–42. [\[CrossRef\]](#)
- Jang, Sung J., Byron R. Johnson, Joshua Hays, Michael Hallett, and Grant Duwe. 2018b. Four Gods" in a Maximum-Security Prison: Images of God, Religiousness, and Worldviews Among Inmates. *Review of Religious Research* 60: 331–65. [\[CrossRef\]](#)
- Johnson, Byron R. 2006. *Objective Hope—Assessing the Effectiveness of Religion and Faith-Based Organizations: A Systematic Review of the Literature*. Baylor: Institute for Studies of Religion (ISR Research Report), Baylor University.
- Johnson, Byron R. 2011. *More God, Less Crime: Why Religion Matters and How it Could Matter More*. Conshohocken: Templeton Press.
- Johnson, Andrew. 2017. *If I Give My Soul: Faith Behind Bars in Rio de Janeiro*. New York: Oxford University Press.
- Johnson, Byron R., David B. Larson, Sung J. Jang, and Spencer Li. 2000a. Who Escapes the Crime of Inner-Cities: Church Attendance and Religious Salience Among Disadvantaged Youth. *Justice Quarterly* 17: 701–15. [\[CrossRef\]](#)
- Johnson, Byron R., Sung J. Jang, David B. Larson, and Spencer Li. 2000b. The 'Invisible Institution' and Black Youth Crime: The Church as an Agency of Local Social Control. *Journal of Youth and Adolescence* 29: 479–98. [\[CrossRef\]](#)
- Johnson, Byron R., and Marc Siegel. 2006a. *The Great Escape: How Religion Alters the Delinquent Behavior of High-Risk Adolescents*. Baylor: Institute for Studies of Religion (ISR Research Report), Baylor University.
- Johnson, Byron R., and Marc Siegel. 2006b. *The Role African American Churches in Reducing Crime Among Black Youth*. Philadelphia: Ctr for Research on Religion and Urban Civil Society Address Leadership Hall.
- Johnson, Byron R., and William Wubbenhorst. 2017. *Assessing the Faith-Based Response to Homelessness in America: Findings from Eleven Cities*. Program on Prosocial Behavior. Waco: Baylor University.
- Johnson, Byron R., Matthew Lee, Maria Pagano, and Stephen G. Post. 2016. Positive Criminology and Rethinking the Response to Adolescent Addiction: Evidence on the Role of Social Support, Religiosity, and Service to Others. *International Journal of Criminology and Sociology* 5: 75–85. [\[CrossRef\]](#) [\[PubMed\]](#)
- Johnston, Joseph B. 2013. Religion and Volunteering Over the Adult Life Course. *Journal for the Scientific Study of Religion* 52: 733–52. [\[CrossRef\]](#)
- Kelly, Elizabeth, Joshua Polanin, Byron R. Johnson, and Sung J. Jang. 2015. Religion, Delinquency, and Drug Use: A Meta-Analysis. *Criminal Justice Review* 40: 505–23. [\[CrossRef\]](#)
- Koenig, Harold G. 2015. Religion, spirituality, and health: A Review and Update. *Advances in Mind-Body Medicine* 29: 19–26. [\[PubMed\]](#)
- Krause, Neal. 2006a. Increased life expectancy. *Journal of Gerontology: Social Sciences* 61: S140–46. [\[CrossRef\]](#)
- Krause, Neal. 2006b. Exploring the stress-buffering effects of church-based social support and secular social support on health in late life. *Journal of Gerontology: Social Sciences* 61: S35–S43. [\[CrossRef\]](#) [\[PubMed\]](#)
- Krause, Neal. 2010. Church-Based Volunteering, Providing Informal Support at Church, and Self-Rated Health in Late Life. *Journal of Aging and Health* 21: 63–84. [\[CrossRef\]](#)
- Krohn, Marvin D., and Terrence P. Thornberry. 1993. Network theory: A model for understanding drug abuse among African-American and Hispanic youth. In *Drug Abuse Among Minority Youth: Advances in Research and Methodology*, Edited by M. R. De La Rosa and J. R. Adrados. NIDA Research Monograph 130. Washington, DC: U.S. Department of Health and Human Services.
- Lam, Pui-Yan. 2002. As the Flocks Gather: How Religion Affects Voluntary Association Participation. *Journal for the Scientific Study of Religion* 41: 405–22. [\[CrossRef\]](#)
- Lee, Matthew T., Byron R. Johnson, Maria Pagano, Stephen G. Post, and George S. Leibowitz. 2017. From Defiance to Reliance: Spiritual Virtue as a Pathway towards Desistance, Humility, and Recovery among Juvenile Offenders. *Spirituality in Clinical Practice* 4: 161–75. [\[CrossRef\]](#)

- Lim, Chaeyoon, and Carol A. MacGregor. 2012. Religion and Volunteering in Context: Disentangling the Contextual Effects of Religion on Voluntary Behavior. *American Sociological Review* 77: 747–79. [CrossRef]
- Lim, Chaeyoon, and Robert D. Putnam. 2010. Religion, Social Networks, and Life Satisfaction. *American Sociological Review* 75: 914–33. [CrossRef]
- Louisiana Department of Corrections. 2015. Baton Rouge, Louisiana. Available online: <https://doc.louisiana.gov/> (accessed on 27 May 2021).
- Mahoney, Annette, Kenneth I. Pargament, Aaron Murray-Swank, and Nichole Murray-Swank. 2003. Religion and the Sanctification of Family Relationships. *Review of Religious Research* 44: 220–36. [CrossRef]
- Makridis, Christos. 2019. Human Flourishing and Religious Liberty: Evidence from Over 150 Countries, 2006–2018. SSRN. Available online: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3472793 (accessed on 27 May 2021).
- Makridis, Christos, Byron Johnson, and Harold G. Koenig. 2020. Does Religious Affiliation Protect People’s Well-Being? Evidence from the Great Recession After Correcting for Selection Effects. *Journal for the Scientific Study of Religion*. [CrossRef]
- Maslin, Sarah. 2018. Can Religion Solve El Salvador’s Gang Problem? *The Economist*, March 1.
- McClure, Jenny M. 2013. Sources of Social Support: Examining Congregational Involvement, Private Devotional Activities, and Congregational Context. *Journal for the Scientific Study of Religion* 52: 698–712. [CrossRef]
- McCullough, Michael E. 2008. *Beyond Revenge: The Evolution of the Forgiveness Instinct*. San Francisco: Jossey-Bass.
- McCullough, Michael E., Giacomo Bono, and Lindsey M. Root. 2005. Religion and Forgiveness. In *Handbook of the Psychology of Religion and Spirituality*. Edited by Raymond F. Paloutzian and Crystal L. Park. New York: The Guilford Press, pp. 394–411.
- Merino, Stephen M. 2013. Religious Social Networks and Volunteering: Examining Recruitment via Close Ties. *Review of Religious Research* 55: 509–27. [CrossRef]
- Monsma, Stephen V. 2007. Religion and Philanthropic Giving and Volunteering: Building Blocks for Civic Responsibility. *Interdisciplinary Journal for Research on Religion*. Available online: http://www.religjournal.com/articles/article_view.php?id=19 (accessed on 27 May 2021).
- Nouwen, Henri J. M. 1979. *The Wounded Healer: Ministry in Contemporary Society*. Image Books. New York: Doubleday. Available online: <http://henrinouwen.org/wp-content/uploads/2015/11/The-Wounded-Healer.pdf> (accessed on 27 May 2021).
- Park, Crystal L. 2005. Religion as a meaning-making framework in coping with life stress. *Journal of Social Issues* 61: 707–29. [CrossRef]
- Petts, Richard. 2009. Trajectories of Religious Participation from Adolescence to Young Adulthood. *Journal for the Scientific Study of Religion* 48: 552–71. [CrossRef]
- Putnam, Robert D. 2000. *Bowling Alone: The Collapse and Revival of American Community*. New York: Simon & Schuster.
- Putnam, Robert D. 1995. Bowling Alone: America’s Declining Social Capital. *The Journal of Democracy* 6: 65–78. [CrossRef]
- Putnam, Robert D., and David Campbell. 2010. *American Grace: How Religion Divides and Unites Us*. New York: Simon & Schuster.
- Regnerus, Mark D. 2003. Linked Lives, Faith, and Behavior: An Intergenerational Model of Religious Influence on Adolescent Delinquency. *Journal for the Scientific Study of Religion* 42: 189–203. [CrossRef]
- Putnam, Robert D., and Lewis M. Feldstein. 2003. *Better Together: Restoring the American Community*. New York: Simon & Schuster.
- Ronel, Natti, and Ety Elisha. 2011. A Different Perspective: Introducing Positive Criminology. *International Journal of Offender Therapy and Comparative Criminology* 55: 305–25. [CrossRef] [PubMed]
- Ronel, Natti, and Dana Segev, eds. 2015. *Positive Criminology*. New York: Routledge.
- Rosmarin, David H., and Harold G. Koenig. 2020. *Handbook of Spirituality, Religion, and Mental Health*, 2nd ed. Cambridge: Academic Press.
- VanderWeele, Tyler J. 2017. On the promotion of human flourishing. *Proceedings of the National Academy of Sciences* 114: 8148–56. [CrossRef] [PubMed]
- VanderWeele, Tyler J., Jeffrey Yu, Yvette C. Cozier, Lauren Wise, M. Austin Argentieri, Lynn Rosenberg, Julie R. Palmer, and Alexandra E. Shields. 2017. Attendance at Religious Services, Prayer, Religious Coping, and Religious/Spiritual Identity as Predictors of All-Cause Mortality in the Black Women’s Health Study. *American Journal of Epidemiology* 185: 515–22. [CrossRef]
- Wilson, John, and Marc Musick. 1997. Who Cares? Toward an Integrated Theory of Volunteer Work. *American Sociological Review*, 694–713. [CrossRef]

Article

Are International Human Rights Organizations Effective in Protecting Religious Freedom?

Lihui Zhang

Department of Political Science, University of Oklahoma, Norman, OK 73019, USA; lihui.zhang-1@ou.edu

Abstract: This paper examines whether international human rights organizations (HROs) influence the protection of religious freedom, and whether the effect is different on the protection of religious rights for institutions versus individuals. This study not only reveals the institutional and individual dimensions of religious restrictions with an exploratory factor analysis, but also uses fixed effects models to analyze cross-national time-series data covering 1990–2003. The results indicate that the domestic presence of HROs has a positive effect on reducing both aggregate religious restrictions and the two dimensions of religious restrictions.

Keywords: institutional religious restrictions; international human rights organizations

Citation: Zhang, Lihui. 2021. Are International Human Rights Organizations Effective in Protecting Religious Freedom? *Religions* 12: 479. <https://doi.org/10.3390/rel12070479>

Academic Editors: Timothy Shah and Nathan A. Berkeley

Received: 21 April 2021
Accepted: 23 June 2021
Published: 28 June 2021

Publisher's Note: MDPI stays neutral with regard to jurisdictional claims in published maps and institutional affiliations.



Copyright: © 2021 by the author. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

1. Introduction

The global community has made great efforts in the protection of human rights since the end of WWII. The International Bill of Human Rights sets the protection of human rights as a common standard for all peoples and nations and intends to promote these rights by “progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction” (pages 1–2, The International Bill of Human Rights). According to Article 4 in International Covenant on Civil and Political Rights, religious freedom is one of the non-derogable rights. Due to this it has a special status in international human rights regimes and is broadly supported by transnational activism. However, due to the lack of enforcement mechanisms in human rights regimes, efforts to improve human rights mainly are incentive and norm based. States are expected to improve rights practices under the criticism on the international stage (Brysk 1993; Hendrix and Wong 2013; Khagram et al. n.d.; Sikink 1993). International human rights organizations are powerful in the protection of human rights through transnational advocacy networks, which transmit information on domestic rights violations and mobilize the international audience to pressure states to change their behaviors (Keck and Sikink 1999). States are also expected to change their behavior in human rights protection in a spiral model, in which they eventually internalize international human rights standards and change behaviors despite their initial denial (Risse et al. 1999).

Recent scientific studies have provided extensive evidence of the positive effects of HROs on rights protection. HROs not only improve human rights protection directly, but also exert influence indirectly through the third actors, such as western democracies who use information HROs provide (Peksen 2009, 2012). However, there are two shortcomings in the current state of research in the study of HROs on human rights protection. First, the current literature in the scientific study of international human rights narrowly focuses on the protection of physical integrity. Second, current literature has not given enough attention to the dual nature of human rights: the individual and institutional dimensions.

This study not only expands the scope of international human rights study into religious freedom, but also takes account of both individual and organizational dimensions of religious rights. The factor analysis of government religious restriction index clearly indicates why the institutional and individual restrictions should be considered separately.

I use fixed effect models in this study to examine whether international human rights organizations influence the level of religious restrictions over time. It is a contribution to the study of religious freedom, because most of the past research has focused on a set of point in time. I find that the domestic presence of HROs has a positive effect on the protection of aggregate religious rights, both for institutional and individual religious rights over time. However, it does not mean that differentiating institutional and individual religious rights is not necessary. In fact, the statistical models show that these two categories of rights are associated with different demographics and characteristics of a country. For example, restrictions on religious institutions tend to be higher in societies with a relatively homogenous religious scene or an established religion, but religious individual rights are not influenced by those factors. This has important implications for our understanding of where religious institutions face the greatest obstacles to their autonomy.

This study adds to the existing literature in the following ways: first, it enriches the scientific study of international human rights by seriously investigating religious rights, given the overemphasis of physical integrity in current scholarship. I argue that religious rights represent *spiritual integrity* and are equally important as *physical integrity*. Expanding the scope of the human rights enables us to have a comprehensive understanding of the factors could help protect human rights, but also advances theoretical development in the field of human rights. Second, this study takes account institutional religious rights by recognizing and differentiating the individual and institutional/organizational dimensions of human rights. Human rights in general have both public/communal and private dimensions. Without taking account of both dimensions, the study of effects of human rights protections is not complete. Overlooking the organizational (or institutional) dimension of human rights also hinders theoretical and policy development in human rights studies. In showing the vital role of HROs in advancing religious freedom, this paper indicates the need for human rights organizations, such as the Religious Freedom Institute, with a special focus on religious freedom. Not all human rights organizations demonstrate an awareness of the unique nature of religious freedom, or how violations of this right affect the fate of general human rights around the globe.

2. Literature Review: HROs Advocacy and Human Rights Practices

Early work in empirical studies provide theoretical foundations for the effects of HRO advocacy on human rights protection. International human rights organizations (HROs) enjoy advantages in transnational networks and information to better hold states accountable for their rights violations. The domestic presence of HROs can pressure oppressing regimes from below through the support for local social movements, and from above through the third-party states that cite reports generated by HROs (Peksen 2009, 2012). In reality, domestic actors often cannot pressure states directly, therefore, they seek transnational advocacy networks to bring material and moral leverage to change states' behavior (Keck and Sikkink 1999). In the spiral model of human rights norm diffusion, we see a discursive causal process linking HRO advocacy on human rights practices. Rights violating states often first deny the abuses alleged by HROs, but repressive states will institutionalize human rights provisions, eventually internalize human rights norms, and change their behavior under the concentrated and continued pressure from HROs and the international community (Risse et al. 1999).

Echoing the spiral model of human rights norm diffusion, the world society approach in sociology offers another theoretical perspective on how international institutions and culture influence the behaviors of nation states and domestic actors. The expansion of HROs contributes to the extensive horizontal institutionalization in world society, which defines the meaning and identity of various actors and appropriate patterns of activities. Therefore, HROs lead to the adoption of norms of human rights protection among nation states and domestic actors through collective purposes and identities constructed by world culture (Meyer et al. 1997; Simmons et al. 2008; Tsutsui and Wotipka 2004).

Recent quantitative cross-national studies provide extensive evidence of the relationship between HROs and human rights practices. Even though it is quite consistent that increases in HRO shaming lead to improvement in human rights (DeMeritt 2012; Krain 2012; Murdie 2014), rights violators are only vulnerable to international pressure and improve their human rights when HROs criticize them (Franklin 2008; Murdie 2014). For example, when women's rights protection is examined specifically, the effect of HROs is more nuanced. Women's rights international non-governmental organizations (WROs) are effective in improving government respect for women's rights in general. However, a targeted naming and shaming publicity strategy is necessary to exert pressure on the government to enforce women's internationally recognized rights (Murdie and Peksen 2015). Similarly, Murdie and Davis (2012) find that HROs presence, paired with HROs targeting with third party pressure can improve human rights conditions. The domestic presence of HROs leads to naming and shaming campaigns, and more attention and condemnation of the human rights abuses by Amnesty international (Meernik et al. 2012). This indicates that the domestic presence of HROs can have effect on the rights protection indirectly through naming and shaming campaigns.

More studies render nuanced findings. The effects of the presence and activities of HROs might be conditional. The influence of naming and shaming is conditioned by the level economic integration condition in a country (Franklin 2008); HRO criticism tends to work better when the countries have stronger ties with other countries. HRO activities also have different effects depending on the context and types of rights violations. The presence of HRO members in neighboring countries increases the probability of human rights improvements, but that is conditional on the ability of the groups to freely move across borders (Bell et al. 2012). The effect of human rights advocacy might also be contingent upon regime type. HRO activity provides information, which matters more for actors engaged in covert abuses like torture but not for actors engaged in overt abuses like death penalty. Therefore, advocacy can lead to improved outcomes in autocracies, which tend to engage in covert abuses that HRO activity publicizes. Democracies, on the other hand, tend to engage in overt abuses, like the death penalty, and HRO activity does not provide new info to the public (Hendrix and Wong 2013). Emilie M. Hafner-Burton (2008) finds that naming and shaming have negative relationships for some rights, but positive relationships for other rights. Public criticism by NGOs, the UN, and the media improves political rights, but does not reduce political terror (killings and beatings), because governments' capacities for human rights improvements vary across types of violations. Governments strategically use some violations to offset other improvements they make in response to international pressure. In addition, central governments might not have the ability to immediately improve human rights conditions happening on a local level even if they intend to (Bagwell and Clay 2017), because of the state capacity. The effect of human rights institutions might also condition on time. Cole and Ramirez (2013) find that the effect of national human rights institutions not only differs by the type of rights, but also by time: right violation increases initially but decreases later.

HROs also have an indirect effect on human rights conditions through the third parties. According to the boomerang (Keck and Sikkink 1999) and spiral models (Risse et al. 1999), advocacy groups not only directly pressure violating states, but also mobilize third parties, such as international organizations and western democracies, to pressure targeted states to change behaviors. HROs can provide information and set the agenda for other international actors through targeting campaigns. For example, the United States uses information provided by Amnesty International to pressure other states to change human rights conditions (Brysk 1993). Even though HROs, as moral agents, apply moral pressure to violators, third party actors can apply material pressure to change abusing states' behaviors. States are also expected to have better human rights practice and better compliance with international law when they have joined more inter-governmental organizations, because violation of their legal obligations in the international communities

magnifies shaming effects (Keck and Sikkink 1999; Goodman and Jinks 2004; Risse et al. 1999).

Despite of the extensive studies done on the effect of HROs on human rights, there are two shortcomings in the current state of literature. There is a narrow focus on the protection of human rights. The extant studies have mostly focused on the protection of physical integrity rights, so there is a need to explore whether the mechanism of HROs work the same for other kinds of rights. Studies have discovered that HROs have different effects on different kinds of rights (Hafner-Burton 2008; Hendrix and Wong 2013). Expanding the scope of human rights can strengthen the external validity of the results of current statistical analysis in human rights studies. As such an effort, this study focuses on the religious rights. Religious freedom, as a spiritual integrity right, is often marginalized in the scientific study of international human rights, but it is a recognized international norm in human rights, and of great importance to the dignity and wellbeing of individuals and groups with religious beliefs. Given the wide spread of religious restrictions (Fox 2015, 2021) and discrimination (Fox 2014), and the detrimental consequences of religious restrictions and discrimination on human rights protection (Fox 2008) and ethnic conflicts (Fox 2000), it is imperative to examine whether HROs can improve the protection of religious freedom. As religion plays an increasing role in international relations in theory and practice (Fox 2001; Sandal and Fox 2013), this study will enrich the literature in IR by providing theoretical advancement and empirical findings in the intersection between religion and human rights study.

Another shortcoming in the current literature is the lack of the examination of the two dimensions of human rights. Most studies focus on the protection of individual rights, and even the definition of human rights is restricted to individuals (Donnelly 2013). However, human rights should include the rights for both individuals and groups. A new study indicates that institutional and individual religious restrictions towards minorities can be predicted by different variables (Finke et al. 2017). The individual dimension is private; the organizational dimension of human rights is social and collective. For some kinds of human rights, such as religious rights and workers' rights, these two dimensions are integral parts. The individual practice is limited without the acknowledgment and protection of the group dimension of the freedom. For example, religious individuals do not have full freedom of religion when they are not allowed to have a church, just as workers do not have labor rights if they are not allowed to form a union. This study contribution to scholarship by taking account of both dimensions of religious rights and examining the effects of HROs on the protection of religious freedom.

3. Theory and Hypothesis

HROs can influence the protection of religious freedom through three channels. First, the local HROs can gather documentation (Brysk 1993) about the rights violations by the government. HROs operate on a local level in the field; therefore, they can collect the firsthand information on the human rights abuse including religious restrictions. Second, HROs can also mobilize human rights movements for the better treatment of the citizens by governments. HROs also know international human rights standards and states' legal international commitments, thus, they can mobilize and provide resources to the religious community to fight for their rights. Third, HROs can provide assistance to human rights groups (Brysk 1993) to overcome the political barriers they face when they fight for their rights on the local level. Religious rights should conform to a similar mechanism.

Therefore, I hypothesize:

Hypothesize 1 (H1). *The domestic presence of HROs decreases the restrictions of aggregate religious rights.*

Would HROs influence how governments treat religious institutions and individuals? Religious freedom inherently includes institutional and individual rights (Scolnicov 2010), and it would not be appropriate to assume that HROs have the same effect on the

protection of these two dimensions of rights. For the domestic presence of HROs, different mechanisms might operate for private individuals versus more public institutions.

Religious individual rights and group rights are different in their visibility. Religious individual rights have an emphasis on the expression of one's belief, while the institutional rights concern group identity and functioning (Scolnicov 2010). Rights violation for institutions are overt, for individuals more covert. Therefore, HROs work more directly to pressure governments to improve institutional human rights and indirectly to improve individual human rights.

Religious institutions have a social, communitarian dimension (Scolnicov 2010). Just as Finke's definition of religious groups as "collectives that promote religious belief, symbols, and practices" (Finke 2013, p. 299). Therefore, religious groups enjoy a higher visibility in comparison to individuals, and restrictions of religious groups are correspondingly more visible. For example, the favoritism of the Orthodox church and restrictions of other religious institutions by the Russian government are highly visible and well known. Religious organizations have the natural advantage such as resources and skills to mobilize themselves for political actions (Fox 2018). The restrictions of religious organizations are usually conducted overtly based on the claims of disruptions of social orders, subversion of state authority, etc. Human rights social movements led by religious actors can cause political disruptions in society and potentially lead the governments to tighten their control of religious groups and even violently crack down. HROs can mediate between the governments and religious groups, and work with religious community to avoid the repercussions from the political disruption. HROs can decrease the severity of restrictions on religious groups by providing assistance to lessen the political repercussions from social movements.

Thus, I hypothesize that:

Hypothesize 2 (H2). *The domestic presence of HROs decreases the restrictions of religious institutions.*

In contrast, religious individuals are relatively less visible and restrictions on religious practice of individuals are more covert. Information on the restrictions and persecution of religious individuals can be hidden intentionally from the public and media by authoritarian regimes to avoid criticism. On the other hand, violation of religious rights of individuals is often conducted by the local officials and police, therefore, there is a principal agent problem due to the state capacity (Englehart 2009). States are restricted by their capacity to monitor abuses on an individual level and evidence of violations is harder to collect on a local level. The local HROs can gather information on rights violations and then transmit overseas through transnational advocacy networks. When HROs launch naming and shaming campaigns targeting the states on religious restrictions of individuals, HROs provide new information to the public and international audience. Therefore, the naming and shaming campaigns would pressure states to improve rights protection due to their vulnerability to moral pressure on their reputations. States can be pressured from above by targeting campaigns of HROs and other third parties. HROs have extensive transnational advocacy networks and can engage in naming and shaming campaigns to induce material and reputational costs on rights violating states. In response, rights violating states might deny such practices at first, but will eventually improve their rights protection under pressure with reputational concerns (Risse et al. 1999).

HROs can also improve the condition of human rights on an individual level in a bottom-up process. The improvement of rights protection is a product of the combined efforts from the states, citizens, and other domestic and international groups. HROs can provide information to individuals and mobilize them to initiate legal claims in domestic legal systems (Simmons 2009). HROs can also initiate information campaigns to educate the domestic population on human rights issues (Davis et al. 2012). The embeddedness of a country in global civil society and international flows of human resources are important predictors for citizens' participation in human rights campaign. If citizens have a member-

ship in HROs, they are more likely to participate in the global human rights movements (Tsutsui 2006).

Hypothesize 3 (H3). *The domestic presence of HROs decreases the restrictions of religious individuals.*

4. Data and Methods

By aggregating data needed for all the variables in this research, I have created a panel dataset. After performing list-wise deletion, the data includes 118 entities (countries) across 14 years from 1990 to 2003. Due to the limitation of the data on HROs (the international human rights organization) (Smith and Wiest 2005), this study is limited to the above years.

The dependent variables are aggregate religious restrictions, institutional religious restrictions, and individual religious restrictions. The aggregate religious restrictions are the sum of all religious restriction indicators from the index on *Regulation of and Restrictions on the Majority Religion and All Religions* in Religion and State Dataset Round 3 (RAS 3) dataset (The Association of Religion Data Archives). The RAS3 dataset uses detailed indicators to measure *Regulation of and Restrictions on the Majority Religion and All Religions* and includes the measures for religious restrictions towards institutions and clergy, and individuals. Each indicator in the index ranges from 0 (no restrictions) to 3 (large scales of restrictions). The descriptive statistics are in Table 1.

The other two dependent variables—institutional religious restrictions and individual religious restrictions—are also constructed from the above index with exploratory factor analysis. More detailed explanations of the two variables and the factor analysis are to follow. The descriptive statistics are in Table 1.

The main independent variables are the measures for the presence of HROs. The presence of HROs is operationalized as the number of HROs within each country. This variable is measured by the number of INGOs listed in the *Yearbook of International Organizations* with a human rights focus with members or volunteers in a specific country in a specific year (Smith and Wiest 2005).

I also control the following usual suspects influencing human rights levels. Economic development is expected to be positively related to states' respect for human rights according to past research (Mitchell and McCormick 1988; Poe and Tate 1994; Poe et al. 1999; Keith et al. 2009). Specifically, stronger economies have fewer government religious restrictions (Grim and Finke 2010). However, the effects of economic growth are mixed. Economic growth can expand the resource base and reduce the economic and social stress, so the governments are less likely to use repression. On the other hand, rapid economic growth also can increase instability which induce the states to resort to coercion (Poe and Tate 1994). In this study, economic development is measured by the GDP and economic growth is measured by percentage growth in GDP.

Population size is positively related to repression according to studies (Poe and Tate 1994; Poe et al. 1999; Keith et al. 2009; Richards et al. 2001). Population size is also positively related to religious restrictions (Finke et al. 2017). To operationalize the effects of population on the abuse of human rights through repression, I will use the total national population to measure the population size. The data for the population size for the 118 countries are from the World Bank development indicators.

The type of political regime also matters for religious freedom. Most of the research in the areas of international human rights law also find that democracy is positively correlated with better practice in human rights law compliance with different approaches (Poe and Tate 1994; Poe et al. 1999; Keith et al. 2009; Richards et al. 2001; Hathaway 2002; Dai 2005). Non-democratic countries repress religion more than others (Sarkissian 2015; Finke and Martin 2014; Finke 2013; Grim and Finke 2010). Democracies have political competition based on the multi-party system. Thus, repression of religions will face political retribution. In this study the democracy variable is measured by the Polity IV score created by Center

for Systemic Peace. It ranges from -10 to $+10$ measuring the autocratic political system to democratic political system.

Regime duration matters for religious freedom too. Older democracies have fewer government restrictions on religious freedoms (Grim and Finke 2010), thus regime duration matters for religious restrictions. Newer regimes and well-established regimes may also have different tendencies to respect human rights (Hafner-Burton and Tsutsui 2005; Hathaway 2002). This variable is measured by the regime durability in Polity IV data.

Scholars have also found that internal and external wars in countries are often related to the regimes' lower respect for human rights (Poe and Tate 1994; Poe et al. 1999; Rasler 1986). The data for internal and external wars are from the Major Episodes of Political Violence and Conflict Regions, 1946–2015, by the Center for Systemic Peace. International wars are measured by the number of international wars the states have participated in; the internal wars are measured by the amount of the civil war and ethnic war the states experienced.

The states' integration into international social society is also an important factor. Global economic interdependence is also important factor influencing human rights protection in countries (Hathaway 2002; Hafner-Burton and Tsutsui 2005). This variable is measured by the percentage of gross domestic product made up by trade, and the source of the data is from World Development Indicators.

Another factor could affect the protection of religious freedom is judiciary independence. An independent judiciary advances religious freedoms (Finke and Martin 2014). If a state with an independent judiciary violates human rights norms, a citizen can bring a claim against it in court. However, citizens in states without independent judiciary would have no resources with which to launch an attack against the state. I adopt the measure provided by CIRI Human Rights Data Project. The levels of judicial independence across countries are coded as 0 for "not independent", 1 for "partially independent" and 2 for "generally independent".

Studies find that percentage of the Muslims in a country is positively related to religious restrictions (Finke and Martin 2014), while the percentage of Christians is negatively related to religious restrictions (Grim and Finke 2010). I included two variables measuring percentages of Muslims and Christians, which are provided in World Religion Data by the Correlates of War Project.

Religious pluralism is an important factor influencing the degree of religious freedom in a society. Rulers grant religious liberties to the public based on their strategic considerations on their political and economic interests. The needs for political figures to balance competing interests in a religiously plural context are important driving forces for the religious liberty (Gill 2007). Religious pluralism is conducive to religious freedom, because it provides a marketplace for different religions to compete with each other for resources and motivate them to grow (Stark and Finke 2000; Gill 2007). Thus, religious liberty is more likely to be in place where there is religious diversity. I created a measure of religious homogeneity using the data of percentages of different religious groups by World Religion Data through the method of Herfindahl–Hirschman Index measure. It is a continuous measure ranging from 0 to 1.

Having an official state religion is often related to religious repression (Finke 2013). When states establish one religion, other religions are in a disadvantaged place in a competition. Other religions in the society could threaten the legitimacy of its institutions and the favored treatment it receives from the state. To prevent unwanted competition and secure more authority and resources, the dominant religion often seeks an alliance with the state. On the other hand, states often build their legitimacy off the established religion. Keeping the status of dominant religion is also in states' interest to their rule. To secure and maintain this alliance, the state often restricts all other religions and discriminates against minority religions to keep the advantaged place the dominant religion (s) holds. I include a measure for religious establishment—Official Religion—which is from Religion and State Dataset Round 3 (RAS 3) dataset (The Association of Religion Data Archives). I recoded

this variable into a dummy variable; 1 means the state has established religions, while 0 means the state has no official religions.

The basic data statistics of the above variables are in Table 1 below.

Table 1. Descriptive Statistics.

Statistic	N	Mean	St. Dev.	Min	Pctl(25)	Pctl(75)	Max
Aggregate Religious Restrictions	1494	6.7	8.1	0	1	9	43
Institutional Religious Restrictions	1494	0.2	0.4	0.0	0.0	0.3	1.8
Individual Religious Restrictions	1494	0.2	0.2	0.0	0.0	0.3	1.5
HROs	1494	38.4	23.4	1	20.7	51	139
Democracy	1494	3.8	6.3	−10	−2	9	10
Population (logged)	1494	16.2	1.5	11.2	15.3	17.1	20.8
GDP (logged)	1494	23.7	2.2	18.9	22.1	25.4	30.1
GDP Growth Rate	1494	3.2	5.3	−50.2	1.6	5.6	35.2
Trade(%GDP)	1494	71.4	38.1	11.1	46.3	85.7	280.4
Internal War	1494	0.7	1.6	0	0	0	10
External War	1494	0.03	0.3	0	0	0	4
Regime Duration	1494	22.4	31.2	0	4	30	194
Judiciary Independence	1494	1.2	0.7	0	1	2	2
Islam (%)	1494	0.2	0.4	0.0	0.002	0.3	1.0
Christian (%)	1494	0.6	0.4	0.0	0.1	0.9	1.0
Religious homogeneity	1494	0.8	0.2	0.0	0.7	1.0	1.0
Religious Establishment	1494	0.2	0.4	0	0	0	1

5. Statistical Modeling

Due to the considerable heterogeneity among the countries examined in this study as panel data, the pooled OLS models may not be proper methods to estimate the effects of the independent variable on religious restrictions. This study uses fixed effect models to examine the “within” effect of the international human rights organizations, taking account of both the heterogeneity across countries and years. The estimates of this study should reveal whether states change behavior in religious freedom after they ratify the treaty within the time frame in this study. I will test the following models:

$$\text{Fixed Effect Models: Religious Restrictions} = (\alpha_i + \theta_t) + \beta_1 \text{HROs} + Z_{it} + \epsilon_{it}$$

In this model, α_i is the individual effect and θ_t is the time effect. α_i captures the effects that are specific to some countries but constant over time, whereas θ_t captures effects that are specific to some time period but constant over countries. Controlling for time effect is necessary. First, important international events such as the end of Cold War and the deepening of globalization happened during 1990–2008. Additionally, there is an increasing trend in the past decades that human rights data are inflated due to the higher of accountability and better data collection methods (Fariss 2017). Taking account of fixed effect of years helps alleviate this problem. ϵ_{it} is the error term in this model. Z_{it} is a matrix of control variables including political regime, judiciary independence, population, GDP size, GDP growth rate, the proportion of trade in GDP, internal war and external war, the regime duration, percentage of Christians and Muslims, religious homogeneity and establishment of religion.

6. Findings

6.1. Building Variables Representing Two Dimensions of Religious Restrictions

The factor scores are derived from the government religious restriction index (NX) from the RAS3 dataset. The NX index is about government restrictions on all religions and majority religions, and it comprehensively covers government religious restrictions in various dimensions.

To discover the latent dimensions of religious restrictions, I run exploratory factor analysis on the NX index. I performed orthogonal rotation when I generated the factors, so the two factors have a minimal correlation. The correlation between two factors is 0.09 ($p < 0.05$). Based on an examination of both the eigenvalues and the questions, I decided to limit the number of factors to two. Based on two different kinds of rotations of the factor analysis, the patterns of the two factors seem quite stable. As shown in Table 2, the first factor has high loadings mostly on items focusing on whether any level of government imposes limitations on religious organizations, such as churches, schools and associations. For example, items regarding government restrictions on religious parties, government restrictions on religious members and organizations not sponsored by the states, and government restrictions on religious clergy and/or organizations engaging in public political speech all have high loadings on factor 1. I labeled this factor as “institutional restrictions”. Countries, such as Egypt, Iraq, Saudi Arabia and Syria have noticeably high scores on this factor, which indicates that Middle Eastern countries tend to impose higher religious restrictions on organizations than other countries. This could be explained by application of Islamic law in such countries, which puts restrictions on religious groups, but also how theocratic regimes control religions in general.

As shown in Table 2, the second factor has high loadings on items concerned with the government restrictions on individuals’ expression and practice of their religions, such as public observance of religious practices, public religious speech, and access to places of worship. For instance, items regarding restrictions on the public observance of religious practices, restrictions on access to places of worship, whether people are arrested for religious activities are all have high loadings on factor 2. Thus, the second factor is focused on the religious restrictions on individual practice of religion and is labeled as “individual restrictions”. Countries, such as China, North Korea, Cuba, Turkmenistan, Uzbekistan and Vietnam scored high on this factor in comparison to the rest of the countries, which implies that these countries impose higher levels of restrictions on individual religious practice. This could be explained by the legacy of the totalitarian regimes from the post-communist states that controlled all aspects of social life.

As the indexes load upon two dimensions—institutional and individual religious restrictions, they can be categorized into these two groups. I followed Grim and Finke (2006)’s methods to generate the indexes for the two dependent variables. As the indexes generated from factor score and raw score additive approach are highly correlated, I will only present the latter results. The simple additive methods have the advantage of being simple and parsimonious. In order to keep the index to the same scale as the single index to facilitate the interpretation of the statistical models, I use the following equation to calculate the indexes for institutional religious restrictions and individual religious restrictions:

$$\text{Institutional/Individual Religious Restrictions} = \text{sum of raw scores of indicators} / \text{number of indicators}$$

Table 2. The Factor Analysis Loadings for Government Religious Restrictions (NX) Index.

	Factor Loadings	
	Institutional Religious Restrictions	Individual Religious Restrictions
Restrictions on religious political parties.	0.501	−0.109
The government restricts or harasses religious members and organizations not sponsored by the states.	0.827	−0.079
Restrictions on formal religious organizations other than political parties.	0.523	0.310
Restrictions on the public observance of religious practices.	−0.088	0.786

Table 2. Cont.

	Factor Loadings	
	Institutional Religious Restrictions	Individual Religious Restrictions
Restrictions on religious activities outside of recognized religious facilities.	−0.088	0.786
Restrictions on public religious speech.	0.365	0.460
Restrictions or monitoring of sermons by clergy.	0.847	−0.131
Restrictions on clergy and/or religious organizations engaging in public political speech or on political activity in or by religious institutions.	0.503	−0.054
Restrictions on access to places of worship.	0.187	0.626
Restrictions on the publication or dissemination of written religious material.	0.400	0.534
People are arrested for religious activities.	−0.115	0.956
Restrictions on religious public gatherings that are not placed on other types of public gathering.	−0.132	0.783
Restrictions on or regulation of religious education in public schools.	0.574	−0.249
Restrictions on or regulation of religious education outside of public schools or general government control of religious education.	0.552	0.233
The government appoints or must approve clerical appointments or somehow takes part in the appointment process.	0.540	0.132
The government legislates or officially influences the internal workings or organization of religious institutions and organizations.	0.573	0.058
Laws governing the state religion are passed by the government or need the government's approval before being put into effect.	0.320	−0.096
State ownership of some religious property or buildings.	0.392	0.046
Conscientious objectors to military service are not given other options for national service and are prosecuted.	0.408	0.009
Other religious restrictions.	0.409	−0.110

6.2. The Effect of HROs on the Aggregate Religious Restrictions

Table 2 presents the results of my hypotheses tests using the aggregate index of religious restrictions. The first model only controls the variables in general human rights studies, and the second model additionally controls some religious variables including the percentage of Christians and Muslims, religious homogeneity and religious establishment.

HROs are helpful in the protection of aggregate religious restrictions, which includes all indicators of religious restrictions. As shown in Table 3, HROs are related to a better protection of religious rights for organizations as indicated by model 1 and 2, which is consistent with the Hypothesis 1. Substantively, one human rights organization in a country can decrease 0.04% of one standard deviation of religious restrictions; an increase on the number of human rights organizations from 1 to 139 can lead to the decrease of around 55.6% of one standard deviation of religious restrictions on average in model 1. The size of effect reduces slightly after the percentages of Christians and Muslims,

religious homogeneity and establishment are held at constant in model 2. Around 139 HROs can decrease the restriction of religious organization by almost 46.3% of one standard deviation when these religious variables are held constant. Therefore, HROs are effective in pressuring states to change their policy and practice in religious rights.

Table 3. The Effect of Domestic Presence of HROs on Aggregate Religious Restrictions.

	Aggregate Religious Restrictions	
	Model 1	Model 2
HROs	−0.032 *** (0.009)	−0.027 *** (0.009)
Democracy	−0.023 (0.018)	−0.019 (0.018)
Population (logged)	1.173 ** (0.546)	1.007 * (0.534)
GDP (logged)	−0.633 *** (0.218)	−0.653 *** (0.214)
GDP Growth	0.028 *** (0.008)	0.026 *** (0.008)
Trade (% GDP)	−0.005 (0.003)	−0.004 (0.003)
Internal War	0.084 * (0.050)	0.078 (0.049)
External War	0.046 (0.159)	0.027 (0.155)
Regime Duration	−0.010 (0.007)	−0.008 (0.007)
Judiciary Independence	0.111 (0.128)	0.138 (0.127)
Christian (%)		−0.283 (1.324)
Muslim (%)		1.671 (2.593)
Religious Homogeneity		0.404 (0.291)
Religious Establishment		5.439 *** (0.658)
N (country-year observations)	1494	1494
N (countries)	118	118
Within R-squared	0.036	0.084

*** $p < 0.01$; ** $p < 0.05$; * $p < 0.1$.

6.3. The Effect of HROs on the Institutional and Individual Religious Restrictions

Table 4 presents the results of my hypotheses tests using the institutional and individual religious restrictions variables. The first and second columns are the results for institutional religious restrictions and the third and fourth columns are the results for individual religious restrictions. Models 3 and 5 only control the variables in general human rights studies, while models 4 and 6 additionally control some religious variables including the percentages of Christians and Muslims, religious homogeneity and religious establishment.

Table 4. The Effect of Domestic Presence of HROs on Institutional and Individual Religious Restrictions.

	Institutional Religious Restrictions		Individual Religious Restrictions	
	Model 3	Model 4	Model 5	Model 6
HROs	−0.001 *** (0.0004)	−0.001 ** (0.0004)	−0.001 *** (0.0003)	−0.001 *** (0.0003)
Democracy	−0.001 (0.001)	−0.0005 (0.001)	−0.0005 (0.001)	−0.0004 (0.001)
Population (logged)	0.071 *** (0.027)	0.061 ** (0.026)	0.024 (0.017)	0.025 (0.017)
GDP (logged)	−0.027 ** (0.011)	−0.028 *** (0.010)	−0.006 (0.007)	−0.006 (0.007)
GDP Growth	0.001 * (0.0004)	0.001 (0.0004)	0.001 ** (0.0002)	0.001 *** (0.0003)
Trade (% GDP)	−0.0002 (0.0002)	−0.0001 (0.0002)	−0.00002 (0.0001)	−0.00003 (0.0001)
Internal War	0.003 (0.002)	0.002 (0.002)	0.006 *** (0.002)	0.006 *** (0.002)
External War	−0.003 (0.008)	−0.004 (0.008)	0.004 (0.005)	0.004 (0.005)
Regime Duration	−0.001 *** (0.0004)	−0.001 *** (0.0004)	−0.0001 (0.0002)	−0.0001 (0.0002)
Judiciary Independence	0.005 (0.006)	0.006 (0.006)	0.007 * (0.004)	0.008 * (0.004)
Christian (%)		0.046 (0.065)		−0.064 (0.043)
Muslim (%)		0.055 (0.127)		0.074 (0.084)
Religious Homogeneity		0.028 * (0.014)		0.008 (0.009)
Religious Establishment		0.319 *** (0.032)		−0.029 (0.021)
N (country-year observations)	1494	1494	1494	1494
N (countries)	118	118	118	118
Within R-squared	0.036	0.103	0.023	0.027

*** $p < 0.01$; ** $p < 0.05$; * $p < 0.1$.

The domestic presence of HROs is effective in protecting both the institutional and individual religious restrictions, which is consistent with Hypotheses 2 and 3. For religious institutions, one human rights organization in a country can decrease 0.1% of one scale of institutional religious restriction index, which is 0.25% of one standard deviation; an increase on the number of human rights organization from 1 to 139 can lead to the decrease of 13.9% of one scale of institutional religious restriction, which is around 34.75% of one standard deviation of institutional religious restrictions on average. After holding constant the percentages of Christian and Muslim, the level of religious homogeneity and religious establishment status, the effect size remains the same.

HROs can also mitigate the oppression from the government for religious individuals. According to models 5 and 6, one human rights organization in a country can reduce 0.1% of one scale of individual religious restriction index, which is 0.5% of one standard deviation; an increase on the number of human rights organizations from 1 to 139 can lead to the decrease of 13.9% of one scale of individual religious restriction, which is around 69.5% of one standard deviation of individual religious restrictions. The effect size also remains the same, after holding the percentages of Christian and Muslim, the level of religious homogeneity, and religious establishment status constant.

Thus, HROs can reduce both institutional and individual religious restrictions, even though the underlying mechanisms might be different, based on the distinct nature of

these two dimensions of human rights. Religious institutions are visible, thus HROs provide support and resources to religious institutions and mediate between them and the government to reduce the repercussions from political disruptions in a direct way. Religious individual restrictions are covert, HROs can also transmit information they gather on religious individual restrictions to overseas and pressure states from the third parties such as UN and some western democracies. HROs can also provide knowledge and resources to individuals and mobilize them to fight for their rights.

6.4. Other Variables Explaining Variation in Religious Institutional and Individual Restrictions

Even though the control variables are not the focus of this study, it is necessary to explore how they are related to the different levels of religious institutional and individual restrictions. Based on models 3–6, those control variables are associated with institutional and individual restrictions differently. Therefore, they support argument that institutional and individual religious restrictions are inherently different, and the distinctions between the two dimensions of human rights should be further examined in the future studies.

Some factors have a significant effect on the institutional religious restrictions but not on individual religious restrictions. The size of GDP in a country is negatively related to the institutional religious restrictions. It is consistent with literature that the bigger the size of the economy is, the lower the religious restrictions are (Mitchell and McCormick 1988; Keith et al. 2009; Grim and Finke 2010). The models also indicate that stable regimes have a lower level of institutional religious restrictions (Grim and Finke 2010). However, both variables are not related to the individual religious restrictions. The models also show that countries with an established religion or a homogenous religious scene have a higher level of restrictions on institutions, because governments are more likely to adopt favoritism towards the established or majority religion in a society in exchange for their support. Restrictions on religious institutions also tend to be higher when the countries have a bigger population. Literature in human rights indicates that there is a higher chance for the occurrence of human rights violations when the population is big (Poe and Tate 1994; Poe et al. 1999; Keith et al. 2009; Richards et al. 2001). It is also true that coders are more likely to find restrictions in a more populous country, where the number of religious people and institutions are also bigger. Interestingly, population size is not related to the individual religious restrictions.

Some other factors are associated with a higher level of religious restrictions for individuals but not for institutions. When there are internal wars, individuals in a society are more likely to be oppressed. Therefore, human rights, including religious freedom, are more likely to be violated. Even though the polity score measure of democracy is not associated with individual religious restrictions, judiciary independence is. Surprisingly, when the judiciary branch becomes more independent, the level of individual religious freedom is actually lower. In addition, economic growth rate is positively related to the level of individual religious restrictions. In other words, individual religious restrictions tend to be higher in countries where the economic growth rate is high. Poe and Tate (1994) explain that rapid economic growth also can increase instability which induce the states to resort to coercion. The only variable seems to be able to reduce the individual religious restrictions is the HROs. Therefore, the study on HROs is of great significance in the study of individual religious restrictions.

7. Conclusions and Discussion

This study finds that religious restrictions have two dimensions: institutional and individual restrictions with an exploratory factor analysis and provides evidence that these two dimensions of religious restrictions should be treated separately in future studies.

This study also examines the effects of HROs on the protection of religious freedom and its two dimensions over time. The mere presence of HROs within a country not only reduces overall religious restrictions; that presence also alleviates both institutional and individual religious restrictions in the 14 years covered. Based on the distinct features of

religious institutions versus individual adherents, restrictions on the former are more overt while more covert on the latter. Therefore, the approach HROs adopt might be more direct for institutions and more indirect for individuals. Domestic HROs play an important role in working with religious institutions to pressure states to change their policies and practices in religious freedom. HROs channel resources to religious institutions to engage in legal or social movement activism for religious freedom. Protection of individual religious freedom might entail a bottom-up process, in which domestic institutions transmit information to HROs on repression or persecution of individuals, which then can name and shame violating states on the international stage. In this way domestic institutions, working in concert with international NGOs and sympathetic states, can help empower and mobilize individuals to fight powerful states to protect their rights through litigation or social movement activism.

This study has great theoretical implications. It expands the current literature on HROs and human rights by focusing on religious rights and their two dimensions. The findings indicate that the domestic presence of HROs is effective in the religious rights protection, which increases with their number and density, a finding consistent with most current literature on other kinds of rights protection. A more textured finding is that HROs are critically important both in the protection of institutional and individual dimensions of religious freedom, but through different underlying mechanisms. HROs employ top-down and bottom-up processes, using direct and indirect approaches for religious institutions and individuals, respectively. This indicates the need to differentiate individual and institutional rights in international human rights studies, both to advance more novel theories and develop more practical policies in human rights protection.

This study also has a great implication for policies to advance international human rights protection. The domestic presence of HROs is useful in protecting the rights of religious institutions and individuals. Among all the variables tested in this study, HROs are the only variable effective addressing religious individual restrictions. Thus, we need to acknowledge that HROs are improving the protection of human rights on the grassroots level, despite of the lack of enforcement in international human rights regimes. As moral agents, transnational advocacy networks play an important role to pressure states to change how they treat their citizens with the vital information and tangible resources. HROs and other international actors need to strengthen existing strategies and develop new ones that hold states accountable for violations.

There are also a few limitations in this study which can be addressed by future studies. The first lies in the limitation of the data, which only covers 1990 to 2003 (given the available data on HROs). The results would have stronger internal validity if the years covered in this study are longer. Future studies can collect more data with longer time span and test the same theories in this study. Second, measurement on HROs can be improved. As the study done by (Murdie and Peksen 2015), the HROs with a specific focus on certain kind(s) of human rights can be more effective in combating the corresponding human rights violations. A way can improve this study is to collect the data on the number of religious HROs on religious freedom across years and countries. The relationships found in this study might be strengthened with these new measures and data.

Funding: This research received no external funding.

Data Availability Statement: The data presented in this study are openly available in Harvard Dataverse at <https://doi.org/10.7910/DVN/1LHW5S>, V1.

Acknowledgments: My thanks to Allen Hertzke, Roger Finke, Colin Barry, *Religions* editors, and anonymous reviewers for their helpful comments and suggestions on previous iterations of this article.

Conflicts of Interest: The author declares no conflict of interest.

References

- Bagwell, Stephen, and Chad Clay. 2017. Capable of Shame? HRO Shaming, State Capabilities, and Government Respect for Physical Integrity. Paper presented at Annual Meeting of the International Studies Association, Baltimore, MD, USA, February 22–25.
- Bell, Sam R., K. Chad Clay, and Amanda Murdie. 2012. Neighborhood Watch: Spatial Effects of Human Rights INGOs. *The Journal of Politics* 74: 354–68. [CrossRef]
- Brysk, Alison. 1993. From Above and Below: Social Movements, the International System and Human Rights in Argentina. *Comparative Political Studies* 26: 259–85. [CrossRef]
- Cole, Wade M., and Francisco O. Ramirez. 2013. Conditional Decoupling: Assessing the Impact of National Human Rights Institutions, 1981 to 2004. *American Sociological Review* 78: 702–25. [CrossRef]
- Dai, Xinyuan. 2005. Why Comply? The Domestic Constituency Mechanism. *International Organization* 59. Available online: http://www.journals.cambridge.org/abstract_S0020818305050125 (accessed on 2 April 2017).
- Davis, David R., Amanda Murdie, and Coty Garnett Steinmetz. 2012. ‘Makers and Shapers’: Human Rights INGOs and Public Opinion. *Human Rights Quarterly* 34: 199–224. [CrossRef]
- DeMeritt, Jacqueline H. R. 2012. International Organizations and Government Killing: Does Naming and Shaming Save Lives? *International Interactions* 38: 597–621. [CrossRef]
- Donnelly, Jack. 2013. *Universal Human Rights in Theory and Practice*. Ithaca: Cornell University Press.
- Englehart, Neil A. 2009. State Capacity, State Failure, and Human Rights. *Journal of Peace Research* 46: 163–80. [CrossRef]
- Fariss, Christopher J. 2017. The Changing Standard of Accountability and the Positive Relationship between Human Rights Treaty Ratification and Compliance. *British Journal of Political Science* 48: 239–71. [CrossRef]
- Finke, R. 2013. Presidential Address Origins and Consequences of Religious Freedoms: A Global Overview. *Sociology of Religion* 74: 297–313. [CrossRef]
- Finke, Roger, and Robert R. Martin. 2014. Ensuring Liberties: Understanding State Restrictions on Religious Freedoms: State restrictions on religious freedoms. *Journal for the Scientific Study of Religion* 53: 687–705. [CrossRef]
- Finke, Roger, Robert R. Martin, and Jonathan Fox. 2017. Explaining Discrimination against Religious Minorities. *Politics and Religion* 10: 389–416. [CrossRef]
- Fox, Jonathan. 2000. Religious Causes of Discrimination against Ethno-Religious Minorities. *International Studies Quarterly* 44: 423–50. [CrossRef]
- Fox, Jonathan. 2001. Religion as an Overlooked Element of International Relations. *International Studies Review* 3: 53–73. [CrossRef]
- Fox, Jonathan. 2008. State Religious Exclusivity and Human Rights. *Political Studies* 56: 928–48. [CrossRef]
- Fox, Jonathan. 2014. Is It Really God’s Century? An Evaluation of Religious Support and Discrimination from 1990 to 2008. *Politics and Religion* 7: 4–27. [CrossRef]
- Fox, Jonathan. 2015. Religious Freedom in Theory and Practice. *Human Rights Review* 16: 1–22. [CrossRef]
- Fox, Jonathan. 2018. *An Introduction to Religion and Politics: Theory and Practice*. London: Routledge.
- Fox, Jonathan. 2021. What Is Religious Freedom and Who Has It? *Social Compass* 1: 1.
- Franklin, James C. 2008. Shame on You: The Impact of Human Rights Criticism on Political Repression in Latin America. *International Studies Quarterly* 52: 187–211. [CrossRef]
- Gill, Anthony. 2007. *The Political Origins of Religious Liberty*, 1st ed. Cambridge: Cambridge University Press.
- Goodman, Ryan, and Derek Jinks. 2004. How to Influence States: Socialization and International Human Rights Law. *Duke Law Journal* 54: 621–703.
- Grim, Brian J, and Roger Finke. 2006. International Religion Indexes: Government Regulation, Government Favoritism, and Social Regulation of Religion. *Interdisciplinary Journal of Research on Religion* 2: 38.
- Grim, Brian J., and Roger Finke. 2010. *The Price of Freedom Denied: Religious Persecution and Conflict in the Twenty-First Century*. Cambridge: Cambridge University Press.
- Hafner-Burton, Emilie M. 2008. Sticks and Stones: Naming and Shaming the Human Rights Enforcement Problem. *International Organization* 62: 689–716. [CrossRef]
- Hafner-Burton, Emilie M., and Tsutsui. 2005. Trading Human Rights: How Preferential Trade Agreements Influence Government Repression. *International Organization* 59. Available online: http://www.journals.cambridge.org/abstract_S0020818305050216 (accessed on 2 April 2017).
- Hathaway, Oona A. 2002. Do Human Rights Treaties Make a Difference? *The Yale Law Journal* 111: 1935. [CrossRef]
- Hendrix, Cullen S., and Wendy H. Wong. 2013. When Is the Pen Truly Mighty? Regime Type and the Efficacy of Naming and Shaming in Curbing Human Rights Abuses. *British Journal of Political Science* 43: 651–72. [CrossRef]
- Keck, Margaret E., and Kathryn Sikkink. 1999. Transnational Advocacy Networks in International and Regional Politics. *International Social Science Journal* 51: 89–101. [CrossRef]
- Keith, Linda Camp, C. Neal Tate, and Steven C. Poe. 2009. Is The Law a Mere Parchment Barrier to Human Rights Abuse? *The Journal of Politics* 71: 644–60. [CrossRef]
- Khagram, Sanjeev, James V. Riker, and Kathryn Sikkink. n.d. *Restructuring World Politics: Transnational Social Movements, Networks, and Norms*. Minneapolis: University of Minnesota Press.
- Krain, Matthew. 2012. J’accuse! Does Naming and Shaming Perpetrators Reduce the Severity of Genocides or Politicides? *International Studies Quarterly* 56: 574–89. [CrossRef]

- Meernik, James, Rosa Aloisi, Marsha Sowell, and Angela Nichols. 2012. The Impact of Human Rights Organizations on Naming and Shaming Campaigns. *Journal of Conflict Resolution* 56: 233–56. [CrossRef]
- Meyer, John W., John Boli, George M. Thomas, and Francisco O. Ramirez. 1997. World Society and the Nation-State. *American Journal of Sociology* 103: 144–81. [CrossRef]
- Mitchell, Neil J., and James M. McCormick. 1988. Economic and Political Explanations of Human Rights Violations. *World Politics* 40: 476–98. [CrossRef]
- Murdie, Amanda M., and David R. Davis. 2012. Shaming and Blaming: Using Events Data to Assess the Impact of Human Rights INGOs1: Shaming and Blaming. *International Studies Quarterly* 56: 1–16. [CrossRef]
- Murdie, Amanda, and Dursun Peksen. 2015. Women’s Rights INGO Shaming and the Government Respect for Women’s Rights. *The Review of International Organizations* 10: 1–22. [CrossRef]
- Murdie, Amanda. 2014. The Ties That Bind: A Network Analysis of Human Rights International Nongovernmental Organizations. *British Journal of Political Science* 44: 1–27. [CrossRef]
- Peksen, Dursun. 2009. Better or Worse? The Effect of Economic Sanctions on Human Rights. *Journal of Peace Research* 46: 59–77. [CrossRef]
- Peksen, Dursun. 2012. Does Foreign Military Intervention Help Human Rights? *Political Research Quarterly* 65: 558–71. [CrossRef]
- Poe, Steven C., and C. Neal Tate. 1994. Repression of Human Rights to Personal Integrity in the 1980s: A Global Analysis. *American Political Science Review* 88: 853–72. [CrossRef]
- Poe, Steven C., C. Neal Tate, and Linda Camp Keith. 1999. Repression of the Human Right to Personal Integrity Revisited: A Global Cross-National Study Covering the Years 1976–1993. *International Studies Quarterly* 43: 291–313.
- Rasler, Karen. 1986. War Accommodation, and Violence in the United States, 1890–1970. *The American Political Science Review* 80: 921–45. [CrossRef]
- Richards, David L., Ronald D. Gelleny, and David H. Sacko. 2001. Money with a Mean Streak? Foreign Economic Penetration and Government Respect for Human Rights in Developing Countries. *International Studies Quarterly* 45: 219–39. [CrossRef]
- Risse, Thomas, Stephen C. Ropp, and Kathryn Sikkink. 1999. *The Power of Human Rights: International Norms and Domestic Change*. Cambridge: Cambridge University Press, pp. 1949–99.
- Sandal, Nukhet, and Jonathan Fox. 2013. *Religion in International Relations Theory: Interactions and Possibilities*. London: Routledge.
- Sarkissian, Ani. 2015. *The Varieties of Religious Repression: Why Governments Restrict Religion*, 1st ed. Oxford and New York: Oxford University Press.
- Scolnicov, Anat. 2010. *The Right to Religious Freedom in International Law: Between Group Rights and Individual Rights*. Oxfordshire: Routledge.
- Sikkink, Kathryn. 1993. Human Rights, Principled Issue-Networks, and Sovereignty in Latin America. *International Organization* 47: 411–41. [CrossRef]
- Simmons, Beth A. 2009. *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge: Cambridge University Press.
- Simmons, Beth A., Frank Dobbin, and Geoffrey Garrett. 2008. *The Global Diffusion of Markets and Democracy*. Cambridge: Cambridge University Press.
- Smith, Jackie, and Dawn Wiest. 2005. The Uneven Geography of Global Civil Society: National and Global Influences on Transnational Association. *Social Forces* 84: 621–52. [CrossRef]
- Stark, Rodney, and Roger Finke. 2000. *Acts of Faith: Explaining the Human Side of Religion*. Oakland: University of California Press.
- Tsutsui, Kiyoteru, and Christine Min Wotipka. 2004. Global Civil Society and the International Human Rights Movement: Citizen Participation in Human Rights International Nongovernmental Organizations. *Social Forces* 83: 587–620. [CrossRef]
- Tsutsui, Kiyoteru. 2006. Redressing Past Human Rights Violations: Global Dimensions of Contemporary Social Movements. *Social Forces* 85: 331–54. [CrossRef]

MDPI
St. Alban-Anlage 66
4052 Basel
Switzerland
Tel. +41 61 683 77 34
Fax +41 61 302 89 18
www.mdpi.com

Religions Editorial Office
E-mail: religions@mdpi.com
www.mdpi.com/journal/religions



MDPI
St. Alban-Anlage 66
4052 Basel
Switzerland

Tel: +41 61 683 77 34
Fax: +41 61 302 89 18

www.mdpi.com



ISBN 978-3-0365-2435-1