



Introduction

There is no global system of Christian law, humanly created, applicable to all of the followers of Jesus Christ. Each church or ecclesial community has its own laws or other regulatory instruments consisting of binding norms. These norms are as wide in scope as the visible activities of the churches themselves, though they by no means prescribe the fullness of faith and life enjoyed by Christians worldwide. This book provides a detailed comparative examination of the juridical systems of churches in ten different global Christian traditions: Catholic; Orthodox; Anglican; Lutheran; Methodist; Presbyterian; Reformed; Congregational; United; and Baptist. It proposes three observations. First, despite the different doctrinal or confessional postures of these separate Christian traditions, there are profound similarities between their contemporary regulatory instruments. These similarities encapsulate a theological conception of Christianity and its global identity in juridical form. This juridical unity is based in part on the practices of the different churches to use common sources in shaping their laws (chiefly the Bible) and to adapt the regulatory fundamentals of their mother church, in the case of those within one tradition, or at least elements of them, in the case of churches which have broken away from that tradition. Secondly, the dominant teaching of Christians is that salvation through Christ is fundamentally a matter of human faith and divine grace. This book suggests that Christianity is also a religion of law. Whilst churches have developed different doctrinal reasons for particular juridical arrangements, the similarities between their laws actually serve to link Christians in common norms of conduct. Indeed, the laws of the different ecclesiastical traditions express Christian faith itself in the form of common norms of action. Above all, on the fundamental assumption that Christians broadly obey the laws they make, the juridical unity between the traditions indicates that Christians are engaged in much the same actions in life regardless of their actual denominational affiliation. In short, whilst doctrines divide, laws link Christians in common action. Thirdly, from the profound similarities between the laws of churches it is possible to induce shared principles of the laws of Christians. This book seeks to articulate these contemporary principles of Christian law common to followers of Christ worldwide.¹

The reasons for this book may be stated simply. In 1974 the Faith and Order Commission of the World Council of Churches recommended – but this was never

¹ For discussion of the Jewish inheritance in Christianity, the understanding that Jesus did not abolish but fulfilled the divine law, and the Pauline approach to law, see e.g. B. Lindars (ed.), *Law and Religion: Essays on the Place of Law in Israel and Early Christianity* (Clarke, Cambridge, 1988).

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pursued – that the divided churches of Christianity should engage in an ecumenical discussion of ‘church law’ in order to explore its role in the movement towards greater visible ecclesial unity. It suggested that, *inter alia*: (1) ‘The churches differ in their order and their constitution’; (2) ‘differences in the structures and legal systems of the churches have their roots in different confessional traditions’; and (3) these differences concern ‘not only the actual order which the churches have, but also the general orientation by which their legislation is inspired’.² However, there has been no study thus far to test (and challenge) these propositions (focusing on difference) by comparing at global level the legal systems of churches, nor one which proposes the category of principles of Christian law common to those churches. Rather, there is a growing body of scholarly and practitioner literature on the regulatory systems of separate and individual churches such as Roman Catholic canon law, the law of the Church of England, Orthodox canon law and Presbyterian law.³ Yet, studies which compare the laws of churches generally do so as between either two churches of different traditions, such as Roman Catholic and Anglican canon laws, or else the laws of several churches within the same tradition (such as those of Anglicanism, or the Reformed tradition).⁴ Indeed, there is very little on the rules of other churches, such as those of the Methodist and Baptist traditions.⁵ Moreover, studies comparing churches of different traditions usually do so in relation to a single issue, such as authority or discipline.⁶ Comparative church law beyond such studies as these, like the category Christian law, is still virtually unknown.⁷ This book fills this gap.

To this end, this book introduces the key areas addressed by the laws of Christians in their separate institutional churches. The subjects indicate well the pervasiveness of law in the life of the church. Broadly, Chapters 1 to 5 deal with the internal life of the churches, and Chapters 6 to 10 with their external relations. The study opens with an examination of the institutional church and its objects, the forms and purposes of regulation, and the relaxation and interpretation of laws (Chapter 1). Then follow the laws of persons: the faithful, membership, and the functions of the laity, lay officers and associations of the faithful (Chapter 2); and the nature and process of ordination, the appointment, tenure and termination of

² World Council of Churches, Faith and Order Commission, ‘The Ecumenical Movement and Church Law’, Document IV.8 (1974).

³ See e.g. G. Sheehy et al., *The Canon Law: Letter and Spirit* (Veritas, Dublin, 1995); M. Hill, *Ecclesiastical Law* (3rd edn., Oxford University Press, 2007); P. Rodopoulos, *An Overview of Orthodox Canon Law* (Orthodox Research Institute, Rollinsford, New Hampshire, 2007); J.L. Weatherhead (ed.), *The Constitution and Laws of the Church of Scotland* (Board of Practice and Procedure, Edinburgh, 1997).

⁴ See e.g. N. Doe, *The Legal Framework of the Church of England* (Clarendon Press, Oxford, 1996): this compares the law of the Church of England with that of the Roman Catholic Church; N. Doe, *Canon Law in the Anglican Communion: A Worldwide Perspective* (Clarendon Press, Oxford, 1998); P. Coertzen, *Church and Order: A Reformed Perspective* (Peeters, Leuven, 1998).

⁵ See e.g. D.C. Sparkes, *The Constitutions of the Baptist Union of Great Britain* (BUGB, London, 1996).

⁶ See e.g. G. Arthur, *Law, Liberty and Church* (Ashgate, Aldershot, 2006); M.A. MacLean (ed.), *Legal Systems of Scottish Churches* (Dundee University Press, 2009).

⁷ The Colloquium of Anglican and Roman Catholic Canon Lawyers founded in 1999 is an exception; see its ‘A decade of ecumenical dialogue in canon law’ (2009) 11 *Ecclesiastical Law Journal* 284.

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ordained ministry, and the functions and grades of ordained minister (Chapter 3). The institutions of church governance are treated in Chapter 4, at the international, national, regional and local levels, including their composition, functions and interrelationships. Next discussed are church discipline, its nature and purpose, mechanisms for its informal application (for example, visitation), systems of courts and tribunals for formal dispute resolution, judicial processes, ecclesiastical offences and sanctions (Chapter 5). Public doctrine and worship are explored in Chapter 6: the lawful doctrines, proclamation of the faith, doctrinal discipline, and the nature, forms and administration of public worship. The study then addresses ritual: baptism, confirmation or profession, the Eucharist, Holy Communion, or Lord's Supper, marriage and funerals (Chapter 7). Next, ecumenical relations, duties and structures, which facilitate or frustrate these, are discussed in Chapter 8. Church property and finance are explored in Chapter 9: the ownership and stewardship of property, sacred places and objects, controlling finance, and income and expenditure. Chapter 10 examines church, State and society: juridical understandings of church-State relations, the position of churches under civil law (taking Europe as an example), the concepts of religious freedom and social responsibility, and ministry in the public institutions of the State. Each chapter also suggests areas for further research. The book concludes with a summary of findings, evaluates the utility of the category Christian law, and, in the Appendix, offers the principles induced from the similarities between the laws of the churches studied.

The book studies the regulatory systems of one hundred churches worldwide spread across the ten Christian traditions (of the twenty-two global 'church families').⁸ The Catholic Church, composed of the Roman or Latin Church and the Oriental Churches, is a global communion with the papacy in Rome at its institutional centre.⁹ Orthodox Christianity arose in part due to doctrinal disagreement between the undivided church of the east and west which eventually culminated in the Great Schism between the Latin and Byzantine churches in 1054.¹⁰ Today, Orthodox Christians are a family of distinct institutional churches worldwide but with no central system of government.¹¹ A dozen Orthodox communities are

⁸ World Council of Churches (*Handbook of Churches and Councils* (WCC, Geneva, 2006)); those not considered here include: Friends (Quakers); Mennonite Churches; Moravian Churches; Pentecostal Churches; Salvation Army; 7th Day Adventists; and Free and Independent Churches.

⁹ Catholicism denotes the faith and practice of Christians in communion with the Pope. The Catholic Church (Latin and Oriental) has a hierarchy of bishops and priests, with the Pope at its head, who are regarded as having authority entrusted by Christ to the Apostles (Jn. 20.23) and to St Peter in particular (Matt. 16.18), whose successor is conceived to be the Pope. Doctrinally it adheres to tradition and the teaching authority (*magisterium*) of the church. According to the Vatican's *Annuario Statisticum Ecclesiae* (2005), the church numbers 1,085,557,000 persons (17.2% of the world's population).

¹⁰ See e.g. H. Chadwick, *East and West: The Making of a Rift in the Church* (Oxford University Press, 2003).

¹¹ (Eastern) Orthodoxy consists of autocephalous (self-governing) churches: the four ancient patriarchates (Constantinople, Alexandria, Antioch and Jerusalem) and the more recent patriarchates (e.g. Russia, Serbia, Romania and Bulgaria). It has diaspora churches across the globe, and holds the faith of the seven ecumenical councils. It has c. 300 million members worldwide. 'Oriental' Orthodoxy comprises, e.g. the Ethiopian, Coptic, Armenian and Syrian Churches with 60 million members.

studied here.¹² Similarly, the worldwide Anglican Communion is a fellowship of autonomous churches most of which, institutionally, are historical derivatives of the Church of England which separated from Rome in the 1530s.¹³ Thirty Anglican churches globally are studied here and what they share legally is summed up in *The Principles of Canon Law Common to the Churches of the Anglican Communion*.¹⁴ The Protestant traditions are generally products of the Reformation of the sixteenth century and the resultant religious conflicts and intolerance stimulated by it.¹⁵ Within the Lutheran World Federation,¹⁶ the Lutheran Churches studied include those in Australia, Canada, Great Britain, Ireland, Denmark, Finland and the United States of America.¹⁷ Originally an eighteenth-century development (inspired by John and Charles Wesley and others) within but today separate from Anglicanism, Methodism is also a global tradition.¹⁸ The Methodist Churches examined are those in Great Britain, Ireland and New Zealand, as well as the United Methodist Church in America and in Northern Europe and Eurasia, the Free Methodist Church of North America, and, also in the Methodist tradition, the Church of the Nazarene.¹⁹ As well as the World Communion of Reformed Churches itself,²⁰ next

¹² The Russian Orthodox Church; Romanian Orthodox Church; Ecumenical Patriarchate of Constantinople; Church of Greece; Archdiocese of Thyateira and Great Britain (Greek); Greek Orthodox Archdiocese of America; Greek Orthodox Archdiocese of Australia; American Carpatho-Russian Orthodox Diocese of the USA; Syrian Orthodox Church of Antioch; Malankara Orthodox Syrian Church; Orthodox Church in America; and Ukrainian Orthodox Church in America. The book also examines the Standing Conference of the Canonical Orthodox Bishops in the Americas.

¹³ The Anglican Communion has forty-four churches (or provinces) worldwide in communion with the See of Canterbury. Churches studied here include those in England, Wales, Scotland, Ireland, USA, Canada and Southern Africa. Anglicanism claims to be reformed and catholic with c. 80 million followers.

¹⁴ *The Principles of Canon Law Common to the Churches of the Anglican Communion* (Anglican Communion Office, London, 2008). The study also includes the Old Catholic Churches in the Union of Utrecht, and reference is made particularly to the North American Old Catholic Church and the Polish National Catholic Church.

¹⁵ See e.g. E. Cameron, *The European Reformation* (Oxford University Press, 1991).

¹⁶ Central to Lutheranism, which began with Martin Luther (16th century), are justification by faith, preaching the gospel and administration of the sacraments, received in faith without any human merit. It has c. 75 million followers worldwide. The LWF (founded 1947) consists of c. 140 churches.

¹⁷ The Lutheran Church of Australia; Lutheran Church in Great Britain; Evangelical Lutheran Church in Ireland; Estonian Evangelical Lutheran Church; Evangelical Lutheran Church in America; Evangelical Lutheran Church of Finland; Evangelical Lutheran Church of Denmark; Evangelical Lutheran Church in Canada; Evangelical Lutheran Church of Southern Africa; Lutheran Church Missouri Synod; and North American Lutheran Church.

¹⁸ The Wesley brothers held the Arminian view that salvation, by God's grace, was possible for all. American Methodists in 1784 constituted themselves as the Methodist Episcopal Church. Methodism is found in over 130 countries. The World Methodist Conference today meets every 5 years.

¹⁹ The Methodist Church in Great Britain; Methodist Church in Ireland; Methodist Church of New Zealand; United Methodist Church – USA; United Methodist Church in Northern Europe and Eurasia; Free Methodist Church of North America; and the Church of the Nazarene.

²⁰ The term 'Reformed' refers here to bodies with historical roots in the French and Swiss-led Reformation (Calvin, Zwingli, et al.). The World Communion of Reformed Churches (WCRC) brings together 80 million Christians worldwide. Its 230 member churches in 108 countries are

come the Reformed Churches,²¹ and those of the Presbyterian tradition – the Presbyterian Churches examined here are those in Scotland, Wales, Ireland, New Zealand and the United States of America.²² The book also explores the regulatory instruments of the Congregational tradition and United and Uniting Churches (which are themselves the result of ecumenical initiatives and of constitutional unions of Christian churches from two or more different ecclesial traditions) – in India, Australia, Canada, Southern Africa and the Philippines.²³ For the Baptist tradition (which also holds that the local church is the primary expression of Christianity), within and beyond the Baptist World Alliance,²⁴ ten national Baptist Unions and Conventions worldwide are studied,²⁵ along with three local churches, two of which are in the USA and one in South Africa.²⁶

The expressions ‘juridical instrument’ and ‘regulatory instrument’ are used throughout this book. They are used here to embrace a variety of normative or prescriptive entities used by the churches of the different Christian traditions which contain rules of conduct. These range from law – such as the Catholic Codes of Canon Law, Orthodox Charters and Statutes, and Anglican Constitutions and Canons – to systems of church order and polity in the Protestant traditions – such as a Manual of Laws, a Book of Order or a Book of Discipline. However, like Catholics, Orthodox and Anglicans, as we shall see, the Lutheran, Methodist, Presbyterian, United, Congregational and Baptist traditions equally use the term ‘law’ for their own regulatory instruments. Doctrinal or confessional texts (such as Articles of Religion or a Confession of Faith) are also prescriptive in character when

Congregational, Presbyterian, Reformed and United churches. The WCRC is a merger of the World Alliance of Reformed Churches (WARC) and the Reformed Ecumenical Council (REC) in 2010.

²¹ The Reformed Church in America; United Reformed Church in Great Britain; Reformed churches hold, e.g., that Christ is the only head of the church, there is no special elite person/group with extraordinary authority, and salvation is by grace through faith in Christ. Worship is usually simple, orderly and dignified and emphasises the hearing and preaching of God’s word.

²² The Church of Scotland; Presbyterian Church in America; Presbyterian Church of Aotearoa New Zealand; Presbyterian Church in Ireland; Presbyterian Church of Wales. The book also covers the United Free Church of Scotland and the Presbyterian Church (USA).

²³ The United Congregational Church of Southern Africa; (United) Church of North India; (United) Church of South India; United Church of Canada; United Church of Christ; United Church of Christ in the Philippines; and the Uniting Church in Australia.

²⁴ The modern Baptist tradition was founded in the Netherlands in 1609 by John Smyth, a cleric who left the (Anglican) Church of England and taught that the church should receive its members by baptism after they have consciously acknowledged their faith; he opposed infant baptism. A Baptist church was set up in London in 1612 with Thomas Helwys as its pastor, believing in religious toleration for all. The first Baptist world congress was held in 1905 (London). The Baptist World Alliance (BWA) holds a world congress every 5 years. The Southern Baptist Convention withdrew from the BWA in 2004 and does not participate in ecumenical organizations; it has 16 million adult members, the largest Protestant group in the USA. There are also four African American Baptist Conventions (c. 15 million members).

²⁵ The Baptist Union of Great Britain; Baptist Union of New Zealand; Baptist Union of Scotland; Baptist Union of Southern Africa; Jamaica Baptist Union; American Baptist Churches in the USA; Canadian National Baptist Convention; North American Baptist Conference; Nigerian Baptist Convention; National Baptist Convention USA; and Southern Baptist Convention.

²⁶ Riverside Baptist Church, Baltimore, USA; Bethel Baptist Church, Choctaw, Oklahoma, USA; Central Baptist Church, Pretoria, South Africa.

they contain norms of conduct. In addition to these instruments, the study examines less formal but nevertheless prescriptive norms found in what might be styled ‘ecclesiastical quasi-legislation’ – that is, informal administrative rules designed to complement formal legal and doctrinal texts, such as Guidelines, Codes of Practice and Ethical Standards. Moreover, identifying juridical ‘principles’ is not problematic in Catholicism, Orthodoxy or Anglicanism.²⁷ The Catholic Church uses principles and *regulae iuris* to shape its codes of canon law. The Orthodox tradition has its universal (and ancient) Holy Canons (though there has to date been no obvious comparison of the modern regulatory instruments of all the individual Orthodox churches globally), and worldwide Anglicanism has *The Principles of Canon Law Common to the Churches of the Anglican Communion*. By way of contrast, the churches within each Protestant tradition have not officially compared their own laws globally, nor have they produced a statement of principles common to each of them worldwide.²⁸ However, it is evident from the comparisons undertaken here that each Protestant tradition, too, has its common principles, sometimes derived from doctrinal texts, which either shape or may be induced from their laws and thereby stimulate juridical unity between them. In turn, for the purposes of this study, a ‘principle of law’ common to the Christian traditions studied here is understood as a foundational proposition or maxim of general applicability which has a strong dimension of weight, is induced from the similarities of the regulatory systems of the churches, derives from their juridical tradition or the practices of the church universal, expresses a basic theological truth or ethical value, and is implicit in, or underlies, the juridical systems of the churches.²⁹

Five further methodological issues faced in the preparation of this book are worthy of note. First, as between the chapters, subjects are treated thematically. The topics of chapters (if not their sequence) and the sections within them are not constructed *de novo* but are shaped broadly by the systematisation of subjects appearing in the regulatory instruments of the churches themselves. The regulatory instruments generally deal separately with the institutional church, persons, government, doctrine, worship, rites and property. Secondly, as with any comparative legal study, a particular challenge was the presentation of material; for example, whether to: (1) devote a chapter to each of the traditions (this would provide a broad picture of each tradition but it would not sufficiently juxtapose the laws for the purpose of identifying shared principles); (2) address all the traditions in a single paragraph on a particular topic (this would enable identification of principles but produce too fragmentary a picture of each tradition); or (3) within a section, devote a paragraph to each tradition. Whilst each had its merits, after some experimentation and discussion with colleagues from several of the traditions, option (3) was chosen: generally, each tradition is treated *seriatim* on the topic of

²⁷ See e.g. N. Doe, ‘The principles of canon law: a focus of legal unity in Anglican-Roman Catholic relations’, *Ecclesiastical Law Journal* (1999) 221.

²⁸ Such a process is recommended in N. Doe, ‘The contribution of common principles of canon law to ecclesial communion in Anglicanism’, *The Principles of Canon Law Common to the Churches of the Anglican Communion* (Anglican Communion Office, London, 2008) 97 at 110.

²⁹ This basic method and a similar definition of a principle of law were employed in N. Doe, *Canon Law in the Anglican Communion: A Worldwide Perspective* (Clarendon Press, Oxford, 1998) and, in the context of secular law, N. Doe, *Law and Religion in Europe: A Comparative Introduction* (Oxford University Press, 2011).

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each chapter section, and sometimes a paragraph is devoted exclusively to an individual church. This method provides a reasonably broad picture for each tradition on a cluster of matters within a discrete area, and it eases the articulation of principles on a topic-by-topic basis. Thirdly, in each section, the traditions are generally taken in an order shaped by their theological stance on church polity, and this order also roughly corresponds (with the exception of the Methodist and Baptist traditions) to the sequence of their historical emergence, namely: Catholic, Orthodox and Anglican (all three traditions have bishops); and in the Protestant traditions: Lutheran (most have bishops, some do not) and Methodist (some have bishops, most do not); Reformed and Presbyterian – in the tradition of Calvin (which rejects a separate grade of bishops); the United Churches and the Congregational Churches (most of which locate ultimate authority in the local church); and the Baptist tradition (which locates authority in the local church but assigns some functions to national Unions and Conventions). Fourthly, it is axiomatic that context is critical to understand law. As we shall see, there is a close relationship between theology and the regulatory instruments. The latter often seek to implement theological ideas as norms of conduct. Throughout the study, reference is made where appropriate to the theological foundations of particular juridical arrangements. Fifthly, whilst the juridical history of Christianity has not yet been written, and this book does not offer one, where relevant, brief reference is sometimes made to the historical texts and formularies of these traditions in order to elucidate rules.³⁰

Articulation of the principles of Christian law is designed to stimulate debate in two sectors: academic and practical. On the one hand, academic lawyers and theologians need to understand the persistent interaction of theology and law. Each feeds off the other: church law is reliant on theological reflection for its creation, and practical theology is often reliant on law for its implementation in norms of conduct. Moreover, given the Christian genius for doctrinal divisions, it is a particular challenge for both theologians and lawyers to justify the continued significance of doctrinal disagreements when the laws of churches converge so profoundly around norms of conduct shared by all Christians. For lawyers, too, it is increasingly recognised that an understanding of religious laws, such as those of Christians, is useful to identify and evaluate the acceptable scope of State law on religion,³¹ but there is generally a lack of studies on the relationship between religious law and the religion law of the State.³² In its development of the category

³⁰ See also R.H. Helmholz, *The Spirit of Classical Canon Law* (University of Georgia Press, Athens and London, 1996); J.A. Brundage, *Medieval Canon Law* (Longman, London, 1995); J. Witte, *Law and Protestantism: The Legal Teachings of the Protestant Reformation* (Cambridge University Press, 2002). See also the historical studies in J. Witte and F.S. Alexander (eds.), *Christianity and Law* (Cambridge University Press, 2008), but the latter does not seek the category principles of Christian law. For a history of the faith, see D. MacCulloch, *A History of Christianity: The First Three Thousand Years* (Viking, New York, 2009).

³¹ See e.g. C. Hamilton, *Family, Law and Religion* (Sweet and Maxwell, London, 1995); P. Edge, *Religion and Law* (Ashgate, Aldershot, 2006); P. Cane, C. Evans and Z. Robinson (eds.), *Law and Religion in Theoretical and Historical Context* (Cambridge University Press 2008); P.M. Taylor, *Freedom of Religion* (Cambridge University Press, 2005).

³² See e.g. R. Ahdar and I. Leigh, *Religious Freedom in the Liberal State* (Oxford University Press, 2005); J. Rivers, *The Law of Organized Religions* (Oxford University Press, 2011); R. Sandberg,

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of Christian law, this book enables debate about this relationship when it involves Christians. The same applies to scholarship in comparative religious law, though coverage of Christianity in this field is sometimes very narrow.³³ The category will certainly provide a point of comparison for those who study the religious law of other single world faiths, such as Jewish law, Islamic law and Hindu law.³⁴ Islamic law and Jewish law, for example, have themselves been compared.³⁵ However, because Christian law has not been articulated hitherto in the way proposed here, meaningful comparisons have not been made between Christian law and, for example, Islamic law or Jewish law.³⁶ This book is designed to facilitate such comparative studies on the basis of its global and interdenominational reach. The book may also be of interest to sociologists of religion. Whilst little attention to date has been given to religious law in the sociology of religion, some scholars are increasingly but briefly recognising the importance of religious 'self-regulation'.³⁷ In short, it is hoped that presenting the principles of the laws of Christian churches together, and comparatively, in a single volume will be of benefit to academic lawyers, theologians and those who study religious law.³⁸

On the other hand, the book is intended as a resource for practitioners, namely, church officers engaged in Christian dialogue with the State and society, interfaith dialogue and ecumenical dialogue. At such moments when a church faces pressure from its host State(s) to adopt secular standards in its ecclesial life and practice, a statement of Christian law might provide support to that church and reinforce or underpin its position on a given matter. For the same reason, the study may assist lawyers in the practice of human rights law and discrimination law, for example, when they need to explain the juridical approaches of Christians in these contexts. Equally, access to a statement of Christian laws enables government to understand what opportunities and constraints the rules of a church place on that church in its dealings with the State and society. State courts often deal with Christian obligations in religious freedom cases, the State legislates on matters which concern Christians, and in the field of charity law, for example, State administrative bodies need to

Law and Religion (Cambridge University Press, 2011); N. Doe, *Law and Religion in Europe: A Comparative Introduction* (Oxford University Press, 2011): the latter proposes the need for such a study.

³³ See e.g. A. Huxley (ed.), *Religion, Law and Tradition* (Routledge, Abingdon, 2002): of Christian laws, this covers only Roman Catholic law: 49 (S. Ferrari, 'Canon law as a religious legal system').

³⁴ See e.g. J. Schacht, *An Introduction to Islamic Law* (Clarendon Press, Oxford, 1982); N.S. Hecht et al. (eds.), *An Introduction to the History and Sources of Jewish Law* (Oxford University Press, 1996); W.F. Menski, *Hindu Law* (Oxford University Press, 2003).

³⁵ See e.g. J. Neusner and T. Sonn, *Comparing Religions Through Law: Judaism and Islam* (Routledge, London, 1999).

³⁶ *The First Roman Consultation on Jewish and Canon Law* (Gregorian University, Rome, 2006), *Periodica de re canonica*, XCVI (2007) is a rarity but only compares Jewish law and Roman Catholic canon law.

³⁷ See e.g. J.A. Beckford and J.T. Richardson, 'Religion and regulation' in J.A. Beckford and N.J. Demerath (eds.), *The Sage Handbook of the Sociology of Religion* (Sage, London, 2007) 396.

³⁸ National and international societies which study law and religion include the Ecclesiastical Law Society; European Consortium for Church and State Research; International Consortium for Law and Religion Studies (ICLARS); and Colloquium of Anglican and Roman Catholic Canon Lawyers.

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understand the juridical standards of accountability prevailing within the churches. Indeed, the Archbishop of Canterbury in 2008 explored the significance of religious law in society today and possible frameworks for the State and religions to accommodate each other's legal systems. This led some commentators to identify as problematic the low levels of knowledge of religious laws, including Christianity, in the pronouncements of government and the courts.³⁹ The book seeks to improve knowledge about juridical Christianity in this secular context. It is also designed to enable other world faiths to understand the opportunities and constraints which ecclesiastical laws place on a church in its dealings with and policy decisions about their relations and collaboration with Christians, not least in seeing how much those faiths share normatively with Christianity.⁴⁰

Above all, the study is relevant to ecumenism. The Great Schism between east and west (in the eleventh century) and the Reformation (in the sixteenth century and beyond) represent landmarks which stimulated the fragmentation of the undivided Christian church into a proliferation today of different institutional churches or denominations. The ecumenical movement (maturing in the twentieth century) seeks the recovery of Christian unity through the development of greater visible communion between the separated (or divided) institutional churches of Christianity worldwide.⁴¹ The principal focus of this movement, in the practice of ecumenism (through inter-church dialogues and institutional structures like the World Council of Churches) and in ecumenical theology (the study of ecumenism), has been the quest for agreement at the level of doctrine achieved through theological debate. The juridical instruments of churches have not thus far featured as part of the staple diet of ecumenical discourse. In point of fact, church law and its equivalents are seen by some distinguished scholars, both Catholic and Protestant,⁴²

³⁹ R. Williams, 'Civil and religious law in England: a religious perspective' (2008) *Ecclesiastical Law Journal* 262. See generally, e.g. R. Sandberg, *Law and Religion* (Cambridge University Press, 2011) esp. Ch. 10.

⁴⁰ This study may also be fed into the work of the Interfaith Legal Advisers Network which has representatives from over fifteen religious groups (including Muslim, Jewish, Sikh and Hindu groups).

⁴¹ See generally e.g. N. Lossky, J.M. Bonino, J. Pobee, T.F. Stransky, G. Wainwright and P. Webb (eds.), *Dictionary of the Ecumenical Movement* (WCC Publications, Geneva, 2002).

⁴² Catholic scholars include Robert Ombres OP: see Colloquium of Anglican and Roman Catholic Canon Lawyers (CARCCL), 'A decade of ecumenical dialogue in canon law' (2009) 11 *Ecclesiastical Law Journal* 284; see also J. Conn, N. Doe and J. Fox (eds.), *Initiation, Membership and Authority in Anglican and Roman Catholic Canon Law* (Centre for Law and Religion, Cardiff, and Pontifical Gregorian University and Pontifical University of St Thomas Aquinas, Rome, 2005) 317, Statement on Authority (Cardiff, 2003): 'The role of canon law in ecumenical dialogue' is e.g. to provide a stable ecumenical methodology; concrete data which embody theology; a detailed guide to practical action for Christian life; definition of the degree of achieved communion and opportunities for and limits of future progress; a description of identity; order and freedom in decision-making; and information for ecumenical partners as to the binding nature of Christian truth. See also B. Leahy, 'The role of canon law in the ecumenical venture: a Roman Catholic perspective' (2011) 15 *Ecclesiastical Law Journal* 15 and N. Sagovsky, 'The contribution of canon law to Anglican-Roman Catholic ecumenism', *ibid.*, 4. See also the work of the Protestant scholar Leo J. Koffeman, *Het goed recht van de kerk: Een theologische inleiding op het kerkrecht* (Kok, Kampen, 2009); and H. Dombois, 'Ökumenisches Kirchenrecht heute', 24 *Zeitschrift für Evangelisches Kirchenrecht* (1979) 225: this proposes that church law is ecumenical in nature (as churches are united in their use of juridical forms to express their place in the church universal).

as the ‘missing link’ in ecumenism. As has already been mentioned, the World Council of Churches acknowledged in 1974 the potential of the study of ‘church law’ as an instrument of ecumenism, but no action was taken to promote this.⁴³ Yet, these instruments should have a more prominent place in ecumenical practice and theology. They tell us much about the opportunities which laws provide for churches to participate in the ecumenical enterprise. They define what ecclesial communion is possible or not. The book, therefore, proposes the concept of ‘juridical ecumenism’ which facilitates exploration of the ways in which ecclesial regulatory instruments enable or restrict the development of greater visible communion between separated churches. Juridical ecumenism offers both a theoretical and a practical framework for the global transformation of ecumenism – one designed to complement but not to replace the current (and dominant) doctrinal and theological focus in contemporary ecumenical method and practice: after all, church regulatory systems are applied theology.

Needless to say, with its global reach, each chapter that follows surveys a vast amount of material from a hundred separate legal systems. In consequence, the chapters carry extensive quotations from and footnotes which refer to the primary legal materials of the churches. These are designed not only to provide the legal evidence for propositions which appear in the text, but also to allow the regulatory instruments of churches to speak for themselves. Unless the text or context provide otherwise, references to regulatory instruments in the footnotes are merely examples – when legal provisions are unique to a tradition or a church within it, this is indicated. Secondary literature is listed in the Bibliography, which also carries studies for further reading as to the individual traditions. An Appendix of the principles of Christian law is included towards the end of the book. These, it is argued, are what emerge from a comparative study of the laws and other regulatory instruments of churches worldwide across the ten ecclesiastical traditions studied. The principles indicate, above all, that dogmas divide but laws link Christians in common norms of action.

⁴³ WCC, Faith and Order Commission, Document IV.8 (1974), ‘The Ecumenical Movement and Church Law’ – the starting point of this document is that church law is an ecumenical problem: see M. Reuver, *Faith and Law: Juridical Perspectives for the Ecumenical Movement* (WCC, Geneva, 2000) 5.