Introduction: Regulating Religion in Asia

I. RELIGION IN ASIA

Interesting trends are developing with respect to religion, and it is the proposition of this book that Asia stands at the forefront of these developments. While the study of law and religion has typically been dominated by the experience of Western jurisdictions in Europe and America and theoretical scholarship developed within these contexts has some relevance to understanding law and religion in Asia, this scholarship needs to be adapted to local situations. In particular, there is a need to take into account Asia's distinctive historical, demographic, and geopolitical contexts.

On the first, the historical contexts, most Asian states have had to grapple with encounters with colonialism, which brought the approach to arranging state and religion developed within the Western (Anglo-European) historical experience of Christian sectarian conflict that culminated in the Thirty Years' Religious Wars. Even the founding of America was rooted in Christian sectarian based pilgrimage. As such, when colonialism and decolonisation established new states, these were premised on a logic of the Westphalian nation-state that wrote itself, constitutionally, into existence as a political entity independent of the Roman Church or monarchies and their national churches. In the non-Western world, modern 'secular' state institutions were hoisted onto local societies in colonial situations, often involving the production of the very notions of religiosity and secularity that affected the nationalisms of both the coloniser and the colonised.[1] As such, while many Asian states adopted secular forms of government and appeared to embrace rational forms of authority that support such secular forms, religion has never retreated to the private sphere. There was no historical necessity; neither was there a forged political or philosophical consensus in which religion agreed to trade public influence for individual and group autonomy over religious affairs.

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[1]   Peter van der Veer, *Imperial Encounters: Religion and Modernity in India and Britain* (Princeton University Press, 2001).

Thus, the Western experience of religious pluralism as a basis for ordering state–religion relations is based primarily on the sectarian strife between divergent Christian creeds in the march to the modern nation-state. On the other hand, the non-Western experience of pluralism is defined by competing religious creeds and their participation in the public sphere, as well as sectarian innovations by religious entrepreneurs.

Second, in terms of demography, the Asia-Pacific region has the most religiously diverse profile in the world. This is according to the Pew Research Center's Religious Diversity Index, which also ranked Singapore, located within Southeast Asia, as the world's most religiously diverse country. The Index is based on the "percentage of each country's population that belongs to eight major religious groups, as of 2010", i.e. Buddhism, Christianity, Hinduism, Islam, Judaism, folk or traditional religions (including members of African traditional religions, Chinese folk religions, Native American religions, and Australian aboriginal religions), adherents of other religions (such as the Baha'i faith, Jainism, Shintoism, Sikhism, Taoism, Tenrikyo, Wicca, and Zoroastrianism), as well as the religiously unaffiliated (including atheists and agnostics). The closer a country comes to having equal shares of the eight groups, the higher its score on the Index.[2] The Asia-Pacific region has 24% Muslims, 25% Hindus, 12% Buddhists, 9% adherents of folk religions, 7% Christians, and 21% unaffiliated among its population. In comparison, Europe and North America have moderate levels of religious diversity, while the Latin America – Caribbean and Middle East – North Africa regions have low degrees of religious diversity.[3]

Such broad religious diversity in Asia is accompanied by a trend of rising numbers among its Hindu, Christian, and Muslim populations. In its report, Pew notes that the five widely recognised world religions – Buddhism, Christianity, Hinduism, Islam, and Judaism, which were the focus of its study, "collectively account for roughly three-quarters of the world's population".[4] A 2015 Pew Research Centre Report projects a 33.7% increase in the Hindu population within the Asia-Pacific region, compared to a 47.8% increase among the Muslim population and 32.8% increase among Christians in the region from 2010 to 2050.[5] Thus, even though the traditional notion of 'Asian religions' typically includes Buddhism, Sikhism, Hinduism, Shintoism, Daoism, and Confucianism,[6] Christianity, and, to a greater

[2] Pew Research Centre, 'Global Religious Diversity' (*Pew Forum*, 4 April 2014). www.pewforum.org/2014/04/04/global-religious-diversity/ (accessed 28 March 2018).
[3] Ibid. See also Zachary Keck, 'Asia Leads World in Religious Diversity' (*The Diplomat*, 9 April 2014). https://thediplomat.com/2014/04/asia-leads-world-in-religious-diversity/ (accessed 28 March 2018).
[4] Pew Research Centre, n. 2.
[5] Pew Research Centre, 'Asia-Pacific. The Future of World Religions: Population Growth Projections, 2010–2050' (*Pew Forum*, 2 April 2015). www.pewforum.org/2015/04/02/asia-pacific/ (accessed 28 March 2018).
[6] Bryan S. Turner and Oscar Salemink, 'Introduction: Constructing Religion and Religions in Asia', in Bryan S. Turner and Oscar Salemink (eds.), *Routledge Handbook of Religions in Asia* (Routledge,

extent, Islam have become major, though not majority, religions in the region. Indeed, whereas it has previously been observed that Christianity is "almost never defined as an 'Asian Religion'", Christian missionary activity established the religion early on in Asia,[7] and today it has oversized influence in many Asian countries. Besides Christianity, Islam, which spread through various means including by trade and the advance of Sufism, a mystical tradition of Islam, is today a significant religion in Asia.[8] Indonesia, located in Southeast Asia, is the country with the largest Muslim population in the world.

This depth in demographic range affects the regulation of religion in important ways. On the one hand, as different religious traditions with different practices, habits, and orientations are manifested, they raise different "accommodation demands." On the other hand, and even more fundamentally, they raise the question of what one is regulating when we regulate 'religion': what is, and is not, in the category of religion? What practices, values, and ideas are we regulating when we regulate religion? Thus, one set of emergent questions is how the terrain of regulating religion changes in different existing social contexts, especially between places where, in general, religiosity is robust, and places where it is not or may be declining, and how the fluid and altering social conditions in any of these environments will impinge on regulation. These 'on the ground' issues may be cast in light of a larger normative and theoretical challenge that also directly impacts the regulation of religion, namely how to deal with the challenge of regulating value diversity and plurality, especially when these are expressed religiously.

Third, in geopolitical terms, there is no single majority religion that dominates in the Asian region and different religions predominate in different countries and subregions. The constitutional arrangements in different countries within Asia therefore give priority to a range of different religions, depending on their majority status. This includes establishing particular religions as state religions. As an example, Buddhism is the state religion of Cambodia,[9] whereas Islam is the state religion in Malaysia,[10] Bangladesh,[11] Pakistan,[12] and Brunei.[13] In comparison, other regions of the world are dominated by a majority religion and their geopolitical approaches are dominated by this majority religion. Europe, North America, and Latin America–Caribbean are dominated by Christian majorities, i.e. 75%, 77%, and 90% of the population respectively. Countries within these regions also tend to

2014), 4. See also Michael D. Coogan and Vasudha Narayanan, *Eastern Religions* (Oxford University Press, 2005) and Donald S. Lopez, *Religions of Asia in Practice* (Princeton University Press, 2002).

[7]   Ibid.

[8]   See, for instance, Paul Wormser, 'The Spread of Islam in Asia through Trade and Sufism (Ninth-Nineteenth Centuries)', in Bryan S. Turner and Oscar Salemink (eds.), *Routledge Handbook of Religions in Asia* (Routledge, 2014), 109.

[9]   Constitution of the Kingdom of Cambodia 1993, Article 43.

[10]   Federal Constitution of Malaya 1957, Article 3(1).

[11]   Constitution of the People's Republic of Bangladesh 1972, Article 2A.

[12]   Constitution of the Islamic Republic of Pakistan 1973, Article 2.

[13]   Constitution of Brunei Darussalam 1959, Article 3(1).

give predominant status to Christianity within their constitutional orders. In the Middle East/North Africa region, 93% of the population are Muslims. Even in the second most religiously diverse region, sub-Saharan Africa, 63% of the population are Christians while 30% are Muslims.

II. ASIA AND SECULARISM

In light of these distinctive features of the Asian region, in terms of its historical encounter with religion and the modern state, the range and depth of its religious diversity, and finally its geopolitical complexities, there is a need to properly theorise the field of law, which mediates the relationship between state and religion. This theorising is particularly needed where secularism is applied to analysing law and religion practices in Asian states. Such analysis not only raises questions of fit, but should also give rise to questions of what secular and secularism means.[14] Theories that have been developed specifically within the 'Western' context may need to be rethought or even rejected in the non-Western contexts. For instance, using the secular frame developed within Western contexts runs the risk of interpreting the public role of religion in non-Western political formations in the current theoretical frame of state–church separation constructed to explain Western formations. To be more specific, let us examine three ways in which the Asian context may defy existing dominant theories about state, law, and religion.

First, the secularisation thesis never quite applied easily to Asia. This thesis dominated Western intellectual and political thinking in the 1960s and 70s. It posited that religion was in decline and on a trajectory to certain oblivion as societies developed economically and scientifically. These theories of secularisation, which occupied the field of sociology and other related scholarship, focuses upon the social consequences of the separation of the church from the state. José Casanova identifies three propositions encompassed within theories of secularisation: (1) the decline of belief, (2) the differentiation of public and private spheres (with religion being assigned to the latter), and (3) (related to the second) as marginalisation of religion.[15] The decline-of-religion sub-thesis postulates that "the process of secularisation would bring in its wake the progressive shrinkage and decline of religion until, some extreme versions added, it eventually disappeared".[16] In this sense, the idea of a secular state is extended to include the secular society, whereby "secularity consists in the falling off of religious belief and practice, in people turning away from God, and no longer going to Church".[17]

[14] See, for instance, Neo's problematisation of secular constitutionalism in Singapore: Jaclyn L. Neo, 'Secular Constitutionalism in Singapore: Between Equality and Hierarchy', *Oxford Journal of Law and Religion* 5.3 (2016), 431.
[15] Jose Casanova, *Public Religions in the Modern World*, 1st edn (University of Chicago Press, 1994), 7.
[16] Ibid., 20.
[17] Charles Taylor, *A Secular Age* (Belknap Press of Harvard University Press, 2007), 2.

On the other hand, the differentiation and marginalisation propositions may be collapsed into the 'privatisation' thesis, which postulates that "the process of secularization would bring in its wake the privatization and [logically] the marginalization of religion in the modern world".[18] Today, there is increasing contestation about the secular and secularism, which had for a long time presumed the viability of the secularisation thesis.

However, the challenge that Asia poses to the secularisation thesis is distinctive from the current contestation over secularism rooted within the Western experience. When scholars such as Peter Berger proclaimed the death of the secularisation thesis, they point to a "furiously religious" world,[19] where there has been the collapse of the "sacred canopy", which provided overarching normative regulation of society, replaced by rationalising modes of regulation marked by modern law and governance.[20] This presumes the existence of a sacred canopy as an existing normative framework for governance. Similarly, José Casanova's influential work on public religions theorises the phenomenon as *deprivatisation*, which assumes a prior privatisation. Indeed, for Casanova, the differentiation of social spheres and the declining influence of religion over the other spheres still hold true, but the new revival is seeing religion resist the shrinking and privatisation of its own sphere, pushing their way (*back*) into the public sphere to challenge dominant norms with their values.[21]

Within this context, Charles Taylor has called for a radical redefinition of secularism, thus to move the understanding of the term as pertaining to the relation of the state and religion to secularism as the proper response of democracy to diversity.[22] According to Taylor, there are four goals for a redefined secularism: to secure the freedom of religious affiliation for individuals, to guarantee the equality of all religions, to facilitate all religions to participate in the public sphere to determine society's identity and the governance of public goods, and to preserve religious harmony and comity.[23] We can see, explicitly in the third goal, the accommodation of the public role of religion. This accommodation is at the heart of attempts to rethink liberalism. As examples, Linda Woodhead[24] argues that strict secularism,

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[18] Casanova (n. 15), 20.
[19] Peter Berger, 'The Desecularization of the World: A Global Overview', in Peter Berger (ed.), *The Desecularisation of the World: Resurgent Religions and World Politics* (Wm. B. Eerdmans Publishing, 1999), 1–18. See also Rodney Stark, 'Secularization, R.I.P. – Rest in Peace', *Sociology of Religion* 60.3 (1999), 249.
[20] Peter L. Berger, *The Sacred Canopy: Elements of a Sociological Theory of Religion* (Doubleday Anchor Books, 1967).
[21] Casanova (n. 15).
[22] Taylor (n. 17).
[23] Charles Taylor, 'Why We Need a Radical Redefinition of Secularism', in Eduardo Mendieta and Jonathan VanAntwerpen (eds.), *The Power of Religion in the Public Sphere* (Columbia University Press, 2011), 34–59.
[24] Linda Woodhead, 'Liberal Religion and Illiberal Secularism', in Gavin D'Costa and others (eds.), *Religion in a Liberal State* (Cambridge University Press, 2013), 93–116.

when it excludes public religious expression, is actually illiberal, while Derek McGhee[25] sees religion as integral to the founding and continued development of liberalism. However, Taylor's redefinition is much more radical than the accommodation of resurgent religion. Overall, the goals secure the place of secularism in overseeing and managing deprivatised *religions*, in the plural, as they tussle in the public sphere, not against secularism per se, but with each other. Thus, secularism derives its political legitimacy not in its liberal and rational departure from its religious opposite, but in its capacity to mediate religious differences and arbitrate religious conflict from a transcultural vantage point.

The focus of these contestations remains liberal democracies in the West, and the underlying philosophical concern has been with the viability of modern, or Western, civilisation, as we know it, and the role of Christianity. The contestation over secularism in the West has revolved around the extent of secularisation's reversal and thus the viability of secularism in contemporary times. Even Talal Asad speaks of a process of reversal – according to him, if religion was to become effectively deprivatised and cemented its role in the public sphere, then the differentiation of social spheres and declining influence of religion would surely be reversed.[26] Indeed, Casanova's position assumes the ineffectiveness of religion in reversing the inexorable march of secularisation, and therefore it sees the new revival as a rearguard reaction against modernity and the encroachment of secularism.

In comparison, much less is known of public religions in non-Western societies and the historical imbrications of non-Christian religions in the formation of secular postcolonial states. Thus, where other scholars noted similar experiences with political Islam, Hindutva, and other non-Christian religions in non-Western settings, it is questionable to what extent these non-Western experiences have been and can be compared to the Western Christian ones.[27] While modernisation has not brought about the decline and marginalisation of religion, scholars emphasise that, at the very least, there is secularisation in the sense of differentiation of public and private spheres, and correspondingly a decline in religion's dominance over 'public' spheres such as the political and the economic.[28] In a way, Taylor's more circumspect idea of secularity as the shift "from a society where belief in God is unchallenged and indeed, unproblematic, to one in which it is understood to be one option among others" is perhaps the most widely applicable.[29]

[25] Derek McGhee, 'Moderate Secularism in Liberal Societies?', in Gavin D'Costa and others (eds.), *Religion in a Liberal State* (Cambridge University Press, 2013), 117–34.
[26] Talal Asad, 'Religion, Nation-State, Secularism', in Peter van der Veer and Hartmut Lehmann (eds.), *Nation and Religion: Perspectives on Europe and Asia* (Princeton University Press, 1999), 178–96.
[27] Irfan Ahmad, *Islamism and Democracy in India: The Transformation of Jamaat-E-Islami* (Princeton University Press, 2009); Ian Harris (ed.), *Buddhism, Power and Political Order* (Routledge, 2007); Jyotirmaya Sharma, *Hindutva: Exploring the Idea of Hindu Nationalism* (Penguin Books, 2011).
[28] Casanova (n. 15).
[29] Taylor (n. 17), 3.

Second, there is increasing recognition that entanglement between state and religion remains the norm rather than the exception, even in highly modernised societies. For instance, Jonathan Fox's study of the extent of religion and state separation in 152 countries with populations of 1 million or more showed that the strict separation of religion and state is the exception whereas government involvement in religion is the norm.[30] Furthermore, the secularisation theories are not able to successfully explain why highly developed countries have differing state–religion relations, public influence of religions, and differing levels of individual religiosity. Ahmed T. Kuru's analysis of 176 countries in terms of their levels of development and official religion, using United Nations Development Programme's Human Development Index, in fact shows that more countries with high development (43%) have official religions compared with countries with medium (41%) and low development (5%).[31]

Asia not only represents an important crucible for investigating permutations of state–religion entanglement, but the degree and depth of state entanglement is also distinctive, and arguably greater. This is because, despite falling short of the separation of state and religion, Western Europe and North America continue to emphasise their 'secular' commitments and state neutrality as a way to manage religious plurality.[32] Furthermore, even in European states that constitutionally adopt a state religion or state church, such state–religion entanglements have been removed or become largely symbolic. Scandinavian countries such as Norway have amended their constitutions to remove the official status of the Norwegian State Church.[33]

Third, just as the secularisation thesis seems particularly incongruent when applied to Asia, post-secularism, which has emerged as a dominant line of scholarship in the Western context, seems similarly ill-fitting in its original terms but has to be reconceptualised to suit the Asian experience. This should not be entirely surprising. Habermas coined the term 'post-secular' specifically to describe the affluent societies of Europe, North America, and Oceania.[34] In the context of these, the idea of the post-secular may herald either an actual resurgence of religious faith, especially religious faith present in relatively new populations due to immigration patterns in some countries, or to a recognition of the persistence of religious faith, both of longstanding and more recent varieties. As discussed above, this is contrary to the received wisdom associated with the 'secularisation thesis' – namely the idea that

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[30] Jonathan Fox, 'World Separation of Religion and State into the Twenty-first Century', *Comparative Political Studies* 39.5 (2006), 537.

[31] Ahmet T. Kuru, 'Secularism and State Politics Toward Religion: The United States, France and Turkey', *Journal for the Scientific Study of Religion* 48.4 (2009), 836.

[32] See Silvio Ferrari, 'The Secular State in a Declining Europe: Beyond the End of the European Dream', *Journal of Religion and State* (2018, in press).

[33] Elin Hofverberg, 'Norway: State and Church Separate after 500 years' (*Library of Congress*, 3 February 2017), www.loc.gov/law/foreign-news/article/norway-state-and-church-separate-after-500-years (accessed 28 March 2018).

[34] Jurgen Habermas, 'Notes on Post-Secular Society', *New Perspectives Quarterly* 25.4 (2008), 17.

religiosity was in a slow but inexorable decline, particularly in the advanced countries of the West but extending after time to other countries as they developed. Critical to Habermas's use of the phrase post-secular is the idea that modernity no longer implies an inevitable march towards secularism or, as Talal Asad has put it, a straightforward narrative of progress from the religious to the secular is no longer acceptable.[35] What is important is that the notion of the post-secular marks a transition from a conception of modernity that was premised on a secular, or at least secularising, logic, to one in which the logic is neither necessarily secular nor religious. With respect to Asia, at the very least where current claims of post-secularism presume a resurgence of public religion, these seem ill-suited to understand a region where religion never quite relinquished its public power.

The applicability of ideas associated with the post-secular to Asia may be less incongruent if post-secular is thought of in terms more akin to Taylor's definition of secularity as a condition in which religious belief becomes simply one option among others.[36] Nonetheless, like all academic phrases, 'post-secular' has taken on a set of its own, diverse meanings. In 2012, the sociologist of religion James Beckford provided a useful accounting of the different senses of post-secular.[37] Among these differing understandings identified by Beckford is Inglof Dalferth's view:

> A society is post-secular if reference to religion or spirituality is no longer of basic, principal or indeed any importance at all for its self-understanding and self-definition . . . Thus truly post-secular societies are neither religious nor secular . . . They are neither for nor against religion(s) . . . Rather, *they take no stand on this matter.* (emphasis in original)[38]

This understanding seems consistent with the view of the philosopher John Caputo, also cited by Beckford, who opines that 'the "post" in "post-secular" should not be understood to mean "over and done with" but rather *after having passed through* modernity . . . '. Thus, a society is post-secular not because it necessarily rejects religion but because religion is optional or, in Taylorian terms, religious belief has no ontic necessity but is merely one option among many.[39]

Following from these points of incongruence, one may boldly suggest a differentiated study of law and religion in Western versus non-Western states. One should again not overstate the differences. This is because even within the 'West', the secularisation thesis has not entirely come to pass. While current data suggest that there are a growing number of people in the Western world who identify

35   Asad (n. 26).
36   On this, see Charles Taylor, *Modern Social Imaginaries* (Duke University Press, 2003).
37   James Beckford, 'SSSR Presidential Address – Public Religions and the Postsecular: Critical Reflections', *Journal for the Scientific Study of Religion* 51.1 (2012), 1.
38   Ingolf U. Dalferth, 'Post-secular Society: Christianity and the Dialectics of the Secular', *Journal of the American Academy of Religion* 78.2 (2010), 317, 324, as cited in Beckford, ibid., 11.
39   Taylor (n. 36).

as religiously unaffiliated,[40] such that religion may indeed be seen to be declining in one aspect, outside of the North American–Western Europe alignment however, religious affiliation continues to be vibrant and strong in most places (though with interesting exceptions). Therefore, while there appears to be a dichotomy between West and non-West, this is not a simple but a complex one. This dichotomy is, furthermore, itself becoming complicated by significant immigration flows from East to West that are changing and challenging the demographic realities and the religious landscape of the affected societies. Nonetheless, there are important points of distinction in Asia, being the most populous region in the world, with its own distinctive state, law, and religion encounters. We do not say that perspectives and analyses from outside of Asia cannot contribute to an understanding of the environment in Asia or to the development of principles relevant to the regulation of religion. However, we argue for a reflexive and dialogical approach to be taken in considering both theory and practices, between the analyses based largely on the experiences of the West and those of Asia. In this process, ideas and frameworks may need to be rethought and we should be alive to incongruences arising from the different demographic, historical, and geopolitical realities in Asia. In short, Asia deserves to be analyzed on its own terms.

III. REGULATING RELIGION IN ASIA: A LAW AND RELIGION APPROACH

This edited volume seeks precisely to analyse the regulation of religion in Asia on its own terms. It does not entirely reject existing theoretical accounts, as the chapters show engagement with current scholarship, but seeks to take seriously the experience and approaches of Asian states. While some chapters apply a normative framework that borrows from existing scholarship developed in the West, others seek to modify these frameworks based on the context of particular Asian states. This volume can be situated within an emerging major law and religion movement that is dedicated to studying the interaction of legal and religious ideas and institutions, norms, and practices. A large body of scholarship has gathered around the governance of institutions that, by their nature, have both spiritual and secular, and religious and political, dimensions. For instance, among the most perennial and prominent sites of such contests is the place of religion in schools. Charity and social welfare are becoming hotter areas of conflict, too, as religious communities play ever more prominent roles in providing charitable services. And in family law, headline battles today are over what *forms* of marriage should be recognised by the state – sometimes over the objection of religious groups, and sometimes at their insistence: straight versus gay marriage, contract versus covenant marriage, monogamous versus

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40   See Wim Hofstee and Arie van der Kooij, 'Introduction', in Wim Hofstee and Arie van der Kooij (eds.), *Religion beyond Its Private Role in Modern Society* (Brill, 2013), 1–11.

polygamous marriage, and more. An emerging battle concerns the fora in which marriage and family cases are adjudicated, specifically, the place of faith-based family laws and religious tribunals in governing the domestic lives of their voluntarily faithful.

This growing area of scholarship is commonly anchored in the crucial questions of the extent to which the export, transplant, or accommodation of discrete internal religious rules or procedures into secular legal systems vindicate religious group autonomy or protection, religious freedom, or constitutional rights. In comparison, 'regulation' is not normative but merely an analytical concept which emphasises state intentionality and the dialectical relationship between law and religion. Regulation is here understood, as Jaclyn Neo proposes in her chapter, as the *intentional intervention in the activities of religious individuals and communities, whether direct or indirect, through binding law or otherwise, and whether conducted by a public sector or private sector actors*. She suggests that using regulation as a conceptual tool to understand the state's relationship with religion is important as it pluralises the analysis of the state's relationship with religion, thus better reflecting the many points of legal and semi-legal encounters between the state and religion, beyond the usual parameters of constitutional and private law. This regulatory exercise arises as a result of the encounter of the state with religion as a matter of individual and group practices, as well as a matter of religious rules being incorporated into the state legal system. Therefore, for our purposes, the crucial question is not whether religion could be, is, and/or should be regulated, but what type of regulation and regulatory modes could be, are, and/or should be used to regulate this highly personal activity that could nonetheless pose some risks to the state such as providing an alternative source of socio-political mobilisation or as a source of intragroup conflict.

Regulation presumes a dialectical relationship between the state and religious groups/individuals, as well as between law and religion. It adopts a claim that many scholars now put forward about the dialectical relationship between law and religion. Thus, while law and religion can be conceptualised as distinct spheres of human life, they do not exist independently of one another. Instead, they are constantly crossing over and cross-fertilising each other. It is these points of crossover and cross-fertilisation that are the special province of the scholarly field of law and religion.

Furthermore, as discussed in Neo's chapter, interrogating the state's regulatory powers over religion should also serve to complicate claims about the relationship between regulation and religious freedom.[41] Wybraniec and Finke have argued, based on their study of religion cases from 1981 to 1996, that "even modest changes in the state's regulation of religion will have an immediate impact

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[41]   John Wybraniec and Roger Finke, 'Religious Regulation and the Courts: The Judiciary's Changing Role in Protecting Minority Religions from Majoritarian Rule', *Journal for the Scientific Study of Religion* 40 (2001), 427–44.