

## COMPARATIVE RELIGIOUS LAW

### Judaism, Christianity, Islam

*Comparative Religious Law* provides for the first time a study of the regulatory instruments of Jewish, Christian and Muslim religious organisations in Britain in light of their historical religious law. Norman Doe questions assumptions about the pervasiveness, character and scope of religious law, from the view that it is not or should not be recognised by civil law, to the idea that there may be a fundamental incompatibility between religious and civil law. He proposes that religious law pervades society, is recognised by civil law, has both a religious and temporal character, and regulates wide areas of believers' lives. Subjects include sources of law, faith leaders, governance, worship and education, rites of passage, divorce and children, and religion-State relations. A Charter of 'the principles of religious law' common to all three Abrahamic faiths is proposed, to stimulate greater mutual understanding between religion and society and between the three faiths themselves.

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Judaism, Christianity, Islam

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## PREFACE

This book has been stimulated by three developments in the past ten years or so. First, in 2007, the Centre for Law and Religion at Cardiff Law School established the Interfaith Legal Advisers Network. The first of its kind in the United Kingdom, the Network was set up in response to a number of high profile civil court cases involving religion, including cases concerning religious dress, sacred animals and faith schools, and the considerable challenges for faith groups posed by State law on religion. The purpose of the Network is to facilitate discussion about such issues, providing the members with a greater understanding of their respective systems of religious law and the common legal issues they face as they interact with the law of the State. The lesson which members have taught each other – not least its Jewish, Christian and Muslim members – is the potential of comparative religious law for fuller mutual respect between the major faith traditions of the world in contemporary society.

Secondly, whilst there have been numerous notable studies which have compared Jewish and Islamic law, it is not until recently that a meaningful comparison could be made between these juristic traditions and those of global Christianity. With its first symposium in 2013, a Panel of Experts has met four times each year in Rome (2013–2016) to produce a Statement of Principles of Christian Law (2016), and then, in Geneva (2017), to feed this statement into the work of the World Council of Churches (which has its headquarters in Geneva), particularly its Faith and Order Commission. The statement was developed by a rigorous examination of the legal systems of the Anglican, Baptist, Catholic, Lutheran, Methodist, Orthodox, Presbyterian and Reformed traditions worldwide – commonly styled (at the World Council of Churches) as among the ‘historical churches’ of global Christianity. The work of the Panel is an innovative project which seeks to re-imagine the ecumenical enterprise – the focus of which hitherto has been on Christian belief and doctrine – through recognition of and working with the laws of churches, and the principles of law which may be induced from them, to

underscore that such laws link Christians in common action in the life of the faithful.

Thirdly, since the well-known 2008 lecture of the then Archbishop of Canterbury, Dr Rowan Williams, on the place of civil law and religious law in England, religious leaders, politicians, judges and scholars have made numerous assumptions about the pervasiveness, character and scope of religious law in British society today. These have ranged from the view that religious law is not recognised by the civil law of the State, from the opinion that it should not be recognised by the law of the State, to the view that there may be a fundamental incompatibility between religious law and the law of the State. This book questions these assumptions. It does so by examining a large body of legal evidence, which indicates that religious law plays a vital role in the institutional lives of Jews, Christians and Muslims as they live out their faiths in civic society alongside State law – and that their study might be used imaginatively for these three faiths to respond to the call of the Woolf Commission in 2015 to work together on a ‘statement of principles to guide the development and evaluation of policies relating to the common good’. Articulating principles of religious law common to Judaism, Christianity and Islam is an obvious starting-point for this constructive proposal.

I have enjoyed the support of a great many people in the process of writing this book. To my colleagues at the Centre for Law and Religion at Cardiff Law School I owe a particular debt of gratitude: Mark Hill, Frank Cranmer, Paul Goodliff, Stephen Farrell, Siôn Hughes-Carew, Paul Colton, Richard Deadman and Jane Steen particularly. The same applies to all those from the various traditions studied here who have provided help. These include colleagues in the Interfaith Legal Advisers Network, particularly David Frei (Registrar of the London Beth Din), as well as Dr Muhammad Mansur Ali and Dr Abdul-Azim Ahmed of the Centre for the Study of Islam in the UK at Cardiff University, and colleagues on the Christian Law Panel of Experts. A key influence on the method used in this book has been the work of the Anglican Communion Legal Advisers Network. I had the privilege (2002–2007) to work on a draft for the Network of a statement of principles induced from the laws of the 44 churches of the worldwide Anglican Communion. These were refined and adopted by the Network and launched at the Lambeth Conference in 2008: *The Principles of Canon Common to the Churches of the Anglican Communion* (Anglican Communion Office, London, 2008). This also taught me a great deal about the possibilities of comparative study of religious legal systems. To the convenor of that Network, Canon John

Rees (Legal Adviser to the Anglican Consultative Council), I owe an equally large measure of gratitude, as to its other members.

At Cardiff Law School, Sharron Alldred, Helen Calvert, Sarah Kennedy and Jenna Poole have as ever provided first-class support, as has, in the research directorate, Rhian Griffiths. At Cambridge University Press, I am especially grateful, as always, to Finola O’Sullivan, Editorial Director, Law, for her continued faith in the project and her infinite patience, as well as that of her colleagues. Finally, I thank my long-suffering family – my wife Heather, our children Rachel, Elizabeth and Edward, my brother Martin and Susan, and, before their sad passing in 2011 and 2016 respectively, my father James and mother Julia – for their constant and unfailing support. Finally, in the event that I have not described the materials accurately, explained them adequately or assessed their value sensibly, I am solely responsible.

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March 2017



TABLE OF ABBREVIATIONS

AMIC	Aberdeen Mosque and Islamic Centre
AMS	Assembly of Masorti Synagogues
AR	Articles of Religion (The Thirty-Nine Articles), Church of England
BAES	Borehamwood and Elstree Synagogue (US)
BCM	Birmingham Central Mosque
BCOM	Bolton Council of Mosques
BDBJ	Board of Deputies of British Jews
BHRS	Brighton and Hove Reform Synagogue
BUGB	Baptist Union of Great Britain
BUS	Baptist Union of Scotland
c.	Canon (Roman Catholic) in the Code of Canon Law 1983
Can.	Canon (Anglican)
CFM	Council for Mosques (Bradford)
CIC	<i>Codex Iuris Canonici</i> (1983), Code of Canon Law (Roman Catholic)
CJM	Central Jamia Masjid (Southall)
Con.	Constitution
CPD	Constitutional Practice and Discipline (Methodist Church in Great Britain)
CTJC	Cambridge Traditional Jewish Congregation
ECFR	European Council for Fatwa and Research
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms (Council of Europe)
EHC	Exeter Hebrew Congregation
ELCIRE	Evangelical Lutheran Church in Ireland
ELS	Elstree Liberal Synagogue
EWCA	England and Wales Court of Appeal Civil division
FCUK	Fatwa Committee UK
FMU	Forced Marriage Unit
FOS	Federation of Synagogues (Orthodox)
IFIS	Inter Firm Islamic Societies
ISC	Islamic Sharia Council
JJBS	Jewish Joint Burial Society

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LC	Lambeth Conference (Anglican)
LCGB	Lutheran Church in Great Britain
LIS	Lancaster Islamic Society
MAT	Muslim Arbitration Tribunal
MBCOL	Muslim Burial Council of Leicestershire
MCB	Muslim Council of Britain
MCOB	Methodist Church in Great Britain
MCI	Methodist Church in Ireland
MCW	Muslim Council of Wales
MINAB	Mosques and Imams National Advisory Board
MJMRIC	Markazi Jamia Masjid Riza and Islamic Centre (Huddersfield)
MPP	Manual of Practice and Procedure (UFCS)
MRJ	Movement for Reform Judaism
NASFAT	Nasru-Lahi-Il-Fathi Society of Nigeria, United Kingdom and Ireland
NHAYS	North Hendon Adath Yisroel Synagogue
NHC	Norwich Hebrew Congregation
NLRS	North London Reform Synagogue
NUIM	Noor-Ul-Islam Mosque (Bury)
PCI	Presbyterian Church in Ireland
PCLCCAC	<i>The Principles of Canon Law Common to the Churches of the Anglican Communion</i> (Anglican Communion Office, London, 2008)
PCW	Presbyterian Church of Wales
PGM	Palmers Green Mosque, Muslim Community and Education Centre for Islamic Studies
PLJC	Peterborough Liberal Jewish Community
RMC	Reading Muslim Council
SO	Standing Orders
SSRS	Sukkat Shalom Reform Synagogue (Wanstead)
UFCS	United Free Church of Scotland
UIDHR	Universal Islamic Declaration of Human Rights (Islamic Council of Europe 1981)
ULPS	Union of Liberal and Progressive Synagogues
UOHC	Union of Orthodox Hebrew Congregations
URC	United Reformed Church
US	United Synagogue (Orthodox)
USCJ	United Synagogue of Conservative Judaism
WCCMJ	World Council of Conservative-Masorti Judaism (Masorti Olami) (or World Council of Conservative Synagogues)
WLJC	Wessex Liberal Jewish Community