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States’ assertion of separation from religion – commonly understood as the thrust of the constitutional idea of secularism – is ubiquitous in the modern world. At the same time, however, religion remains a force, keeping its hold on the private lives of individuals and tenaciously maintaining its presence in the politics of individual states and the international legal order. The tension arising from the tenacity of religion and the ineluctability of claims of separation has heightened the need to understand how the modern state regulates religion and religious difference through its enactment of secular governmentality, to unveil the ambivalence that mode of governance entails, to identify the forms of empowerment and disempowerment it fosters, and to scrutinize how subjects contest its consequences.

Colonial Northern Nigeria provides a particularly unique opportunity to consider these questions. The meeting of the distinctive precolonial caliphate with Orientalist ideals in the late nineteenth century produced one of the most distinctive sites for the colonial governance of religion and religious difference. Empire’s ostensible deference to Islam, manifesting in indirect rule through Muslim elites, its peculiar application of “Islamic” law in the public sphere (via criminal law), and extensive restrictions on Christian missionaries purportedly entrenched the precolonial caliphate. Yet, the colonial state insisted on its secularity. In unraveling this puzzle at the heart of colonial governance, this work presents the story of a sustained constitutional entanglement of religion and politics and illuminates its consequences for colonial and postcolonial subjects.
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Empire was entangled with religion from the onset. The origin of empire on the West Coast of Africa in 1841 was the product of an alliance between the British state and anti-slave-trade evangelicals. With the “sword of the steel” furthering the “sword of the spirit,” imperial outreach was closely allied with Protestant Christian missions especially the Church Missionary Society of the Church of England (CMS) in the nineteenth century. That alliance, which featured empire-backed CMS jurisdiction over Africans, would change to hostility between the colonial government and missionaries when formal empire commenced in Northern Nigeria at the turn of the nineteenth century. In founding colonial governance on indirect rule through Islamic institutions, the British administration separated itself from the missionary enterprise, asserting that this policy was necessitated by its secular approach to governance.

Colonies were “laboratories of experimentation.” It was the British Empire’s experience confronting a dizzying array of religious faiths in its colonies, beginning in India, that led to its development of secularism as a statecraft technique of managing religious difference. The British colonial state considered church-state separation crucial to governing India. This separation from the church was prompted largely by the experience of the 1857 Indian Revolt, which was widely interpreted as a rebellion against the anglicizing mission. Beyond the fact that early colonialism featured a measure of cooperation with Christian missions, the imperial venture also professed a civilizing goal underpinned by Christian ideas. The civilizing mission was based on two convictions.

5 See Ian Copland, “Christianity as an Arm of Empire: The Ambiguous Case of India Under the Company, c. 1813–1858,” Historical Journal 49, no. 4 (2006): 1025–1054. See also van der Veer, Imperial Encounters. Copland argues that there was a degree of cooperation between empire and missions, deviating from the account of previous
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The first was that “others” were capable of racial and religious “uplift,” and the second was that these others could become “English in tastes, in opinions, in morals and in intellect.” The rebellion against the civilizing project inspired the colonial state’s distancing from missions and, simultaneously, its adoption of Indigenous institutions as the vehicle for colonial governance. To be sure, notions of governing the “native” through their institutions predates the 1857 revolt; as early as 1772, Warren Hasting’s Judicial Plan had designed such a scheme. Nevertheles, it was the 1857 mutiny that would catalyze these earlier proposals, marking a turn to indirect rule.

Theorists and historians of colonialism point out that the policy of adopting native institutions developed alongside the construction of the “native” as a legal and political identity. With Britain’s abandonment of its civilizing mission, it turned to liberal imperialism, premised on difference and simultaneously having as its goal, the construction and governance of difference. Religious difference was, therefore, central to the liberal turn. Indeed, the famous 1858 Proclamation by historians. See, for instance, Brian Stanley, The Bible and the Flag: Protestant Missions and the British Empire in the Nineteenth and Twentieth Centuries (Townbridge: Apollos, 1990).


8 The terms “native” as well as one I use later – “pagan” – are now regarded, at best, with ambivalence. I adopt them in this study in the vernacular sense in which they were employed by official colonial discourse and the dramatis personae in this book.

9 This scheme had been designed for the East India Company. See Julia Stephens, Governing Islam: Law, Empire, and Secularism in Modern South Asia (Cambridge: Cambridge University Press, 2018).


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the English Crown ushered in late colonialism by declaring religious autonomy for colonial subjects:

> We declare it our Royal will and pleasure that none be in anywise favored, none molested or disquieted, by reason of their religious faith or observances, but that all shall alike enjoy the equal and impartial protection of the law; and we do strictly charge and enjoin all those who may be in authority under us that they abstain from all interference with the religious belief or worship of any of our subjects on pain of our highest displeasure.\(^{12}\)

If the Indian mutiny inspired the state’s distance from missions, Peter van der Veer points out that it was missionaries who advocated for the disruption of the state’s ties with Indigenous religions. In response to what they perceived as the state’s patronage of native religions, missionaries called for a separation of the state from these religions. Yet, it is important to note that this project was never intended to be a principled call for the disestablishment of all religions. On the contrary, the preference of missions was to be allied with the state and, failing that, to be free of restrictions in evangelizing to natives.\(^{13}\) Indeed, missionaries remained fully committed to the establishment of the Church in England. Since Indigenous religions and religious institutions would continue to play a central role in civil and political life regardless of the claim of separation, the stage was set for altercations over the place of matters spiritual in the state. Regardless of these ambiguities, the classical requirements of liberal secularism – the assertion of religious freedom and of separation – were formally complete.\(^{14}\) Invoked not only directly but also obliquely through a variety of ideas including neutrality, tolerance, and impartiality, secularism’s essence – avowing the state’s separation from religion and religious liberty – had come to be embedded in colonial thought and policy.

within the ranks of the colonial administration in India. To take an example, James Fitzjames Stephen (law member of the viceroy’s council from 1869–1872) argued that the British, being members of a superior conquering race, should not “shrink from the open, uncompromising assertion” of that right by conquest to govern Indians whom he saw as “ignorant to the last degree” and “steeped in idolatrous superstition.”

\(^{12}\) “Proclamation by the Queen in Council to the Princes, Chiefs and People of India Published by the Governor-General at Allahabad,” (1858). IOR/L/PS/18/D154 British Library, UK.

\(^{13}\) Van der Veer, Imperial Encounters, 151. See Chatterjee, The Making of Indian Secularism.

GOVERNING DIFFERENCE: COLONIALISM 
AND RELIGION IN NIGERIA

The colonial state’s turn from its nineteenth-century alliance with Christian missions in Northern Nigeria emerged from this broader imperial context. Yet, Northern Nigeria was quick to attain notoriety in missionary circles. By 1910, seven years after the commencement of formal empire, the World Council of Missions would devote much attention to the territory at its inaugural meeting, declaring the British Protectorate as an unusually daunting place to be a Christian missionary. British Northern Nigeria’s infamy was rooted in the peculiar brand of indirect rule on which colonial governance was based, and the religious differentiation policy it engendered.

As in much of the British Empire after the Indian mutiny, colonial governance took the form of indirect rule in Northern Nigeria, co-opting Islamic institutions in that predominantly Muslim territory. This was complemented by a policy of religious differentiation. The state apprehended religious difference through a “grid of intelligibility” that hierarchized faiths. It classified the colonized population into Muslims and non-Muslims. The colonial ideal of a non-Muslim native was the “pagan.” In the colonial imagination, this pagan was “uncivilized,” “living under mob law or arbitrary will” without discernible means of political or judicial administration. Hence, the state sought, where possible, to place adherents of diverse

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19 Lugard, The Dual Mandate, 78.
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Indigenous religions under the administration of the newly colonized caliphate institutions.20

The state featured a tripartite residential organizational structure among natives. Type I areas had a predominantly Muslim population (emirates) and were administered by the state through emirs (Muslim chiefs).21 Type II areas were those understood to have Muslims and other Indigenous faith populations and were administered through Muslim chiefs of a lower status than emirs. The third category, Type III areas, were referred to as “pagan” areas and administered through the “pagan” chiefs. Therefore, much of the territory was governed through Muslim rulers, an arrangement that extended the political authority of the caliphate political elites – the Masu Sarauta (“possessors of governance”) – beyond the precolonial years. Likewise, local chiefs were far from equal; emirs were at the highest rung of the hierarchy and “pagan” chiefs at the bottom. This arrangement extended to the jurisdiction of law. While the state applied “Islamic” law (including Islamic criminal law) and Islamic systems of courts in Type I and II areas, “pagan” native law and courts operated, subject to several restrictions, in Type III areas.

This political and legal arrangement also formed the basis of the state’s policy regarding Christian missionary proselytization. Missionaries were prohibited from proselytizing in Type I areas and much of Type II areas but were permitted in Type III areas, a policy for which local and global missionaries castigated the state. Indeed, these Christian missionaries and the local converts they secured through the curtailed

20 I refer to religious groups other than Muslims as Indigenous in this book. This is not to signal the isolation of these groups from external (religious) influence prior to the encounter with the British imperial and Christian missionary agenda. Moreover, given that Islam’s presence in Northern Nigeria dates to the ninth century and debatably earlier (since Islam arrived on the continent in the early seventh century), I use the Indigenous marker for non-Muslim faith communities to distinguish them from Muslims in the colonial governance project rather than to mark the nonindigenous presence of Islam in the territory. See Rabiat Akande, Wendell Marsch, and Ann McDougall, “The Making of the Islamic World: Islam at a Crossroads in West Africa,” January 2021, in Ottoman History Podcast (podcast), January 2021, www.ottomanhistorypodcast.com/p/the-making-of-islamic-world.html.

21 Emirs were the political heads of provinces in the precolonial caliphate all acting under the overall authority of the sultan/caliph with the seat of the Caliphate at Sokoto. The colonial government initially abolished the title of the caliph in 1903, designating the new chief of Sokoto an emir. Even when the title was eventually introduced, the jurisdiction of the sultan had been reduced to that of emirs save in ceremonial matters. See Peter K. Tibenderana, “The Irony of Indirect Rule in Sokoto Emirate, Nigeria, 1903–1944,” African Studies Review 31, no. 1 (1988): 67–92.
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proselytization efforts described British colonial rule as tantamount to “Muslim sub-imperialism.”

22 This appellation was very common in missionary discourse. See, for instance, Church Missionary Society, Report of Sub-Committee of Group III of the Church Missionary Society on Difficulties with Nigerian Government, January 26, 1916. CMS/B/OMS/A3/CL/1916. University of Birmingham Cadbury Special Collections (hereafter Cadbury Collections).


25 Article 6, Berlin General Act 1885. The Berlin General Act was signed at the Berlin Conference, a gathering where European colonial powers carved out their respective African territories and set out the broad contours of the legal design of their relationship as colonial powers in Africa.

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Indeed, colonial administrators would also insist that Muslim chiefs were “secular chiefs,” through whom the state governed. In doing so, the state was invoking the post-mutiny mantra of imperial secularism: the assertions of separation or distance from religious authority (while governing through it), and of the religious freedom of colonial subjects.

DEFINING, DEEPENING, AND HIERARCHIZING RELIGIOUS DIFFERENCE

Historians and scholars of Islamic law, alike, have tended to ignore the state’s assertion of its secularity, insisting that it perpetuated the precolonial theocracy. Consider the opinions of John Anderson, professor of Islamic law at the School of Oriental and African Studies in London, and Joseph Schacht, Oxford academic and later Columbia University professor, two prominent twentieth-century Western scholars of Islamic law. In separate surveys commissioned by the Colonial Office, both reached a similar conclusion: that the state had elevated Islamic law and perpetuated the precolonial theocracy. Anderson and Schacht have been hardly alone in this view. Even contemporary historians of colonial Northern Nigeria espouse this opinion. Take the example of Moses Ochonu’s Colonialism by Proxy, a fascinating account of colonial rule in Northern Nigeria. Ochonu argues that the colonial...
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governance of Northern Nigeria through Muslim proxies was in pursuit of the goal of sameness: the creation of a homogenous Northern Nigeria modeled on the Muslim caliphate. Although Ochonu stresses that the colonial idea of the caliphate was an “imaginary” and not based on actual precolonial Islam, he concludes, as Schacht and Anderson did, that the essence of colonial administration was the reification of Islamic institutions.

To be sure, Northern Nigeria featured one of the most extreme forms of indirect rule in the British Empire. Save in parts of the Aden Protectorate, only there did Islamic law apply not just as personal law, but also as criminal law. For this reason, as well as the state’s restrictions on missionary proselytization, received accounts present this colony as a unique and extreme case of the valorization of Islamic law, typical of theocratic governance. Nevertheless, the state’s claim to secularism was just as palpable, laying not merely in its invocation of the post-mutiny mantra of separation and religious liberty, but also in its deployment of the late-colonial technique of defining, deepening, and hierarchizing religious difference. Whereas the state formally invoked separation and religious freedom, in essence, everyday colonial governance entailed this threefold technique. And, in spite of the tension between this technique of governance and the conventional elements of secularism declared by the state, I argue that the former is, like the latter, characteristic of secular governance.

Scholarship in other colonial contexts illuminate the defining effect of colonial secularism on religion. C. S. Adcock’s work on colonial India, The Limits of Tolerance, draws attention to the central governing feature of secularism: it “defines and confines” religion. Similarly, in Constituting Religion, a study of the Malaysian context, Tamir Moustafa argues that not only did colonial law “constitute” religion, the postcolonial liberal state also remains inextricably implicated in this project.


Ochonu, Colonialism by Proxy, 8–13.

Although in tension with governance practice, these formal elements of secularism are nevertheless crucial for understanding secular governance. I return to this point below.

Adcock, The Limits of Tolerance, 25.
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of religion governance.33 This project of constituting religion, in fact, produces religious difference. What results, as Saba Mahmood argues, is that the secular state becomes “not simply a neutral arbiter of religious differences,” but in fact, it “produces and creates them.”34

To render religions legible to colonial governance and its purposes, the state defined religion as well as religious difference. As noted earlier, the state classified religion into two: “Islam” and “Paganism.” The “Pagan” hardly mapped onto the precolonial category of non-Muslims. Not only did this group encompass a broad range of Indigenous spiritual tendencies, but members of this class within the precolonial Islamic polity (the Maguzawa) had the status analogous to that of majus (Zoroastrians) in classical Islamic jurisprudence. As such they were entitled to jurisdictional privileges comparable to that of the ahl al kitab (People of the Book), which included judicial autonomy as well as a measure of political autonomy. The colonial classification of the Maguzawa as kafiri (pagan) altered this precolonial identity, and overturned the caliphal governance arrangement, stripping this group of its autonomy. In the process, colonial rule not only deepened Muslim versus non-Muslim difference, it also hierarchized it far beyond the precolonial years.35

Ostensibly allied with the state, Islamic institutions were nevertheless not untouched by the colonial processes of defining, deepening, and hierarchizing religious difference. The state defined Islam, constructing a vision of the religion that could coexist with colonial governance. This was effected through a two-part process: the remaking of Islamic law through an unprecedented expansion of the precolonial doctrine of siyasa (discretionary powers of political rulers), and the making of an ideal Muslim subject.

From granting political authorities limited juristic authority in precolonial times, siyasa came to be expanded so as to overshadow fiqh (Islamic jurisprudence). This process did not only alter the content of Islamic jurisprudence; already, important studies like Sarah Eltantawi’s Shari’ah on Trial reveal the colonial transformation of Northern

33 Moustafa, Constituting Religion, 158. See also Stephens, Governing Islam.
34 Mahmood, Religious Difference in a Secular Age, 22.