

EXAMINING THE INTERSECTION OF LAW, RELIGION, AND PUBLIC POLICY: A COMPARATIVE STUDY ON RELIGIOUS FREEDOM AND STATE REGULATIONS

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ABSTRACT

The relationship between law, religion, and public policy is complex and diverse, often resulting in conflicts between government regulation and religious freedom. This is particularly evident in the rise of religious pluralism, where the balance between preserving social order and allowing religious diversity becomes increasingly important. State laws can sometimes restrict religious freedom, leading to legal disputes. This study investigates the interaction between public policy, religion, and law using qualitative literature, focusing on the relationship between state regulation and religious freedom. It analyses historical interactions, legal and public policy frameworks, and the potential effects of state restrictions on religious freedom. The study also explores how nations reconcile religious liberty with enforcing laws for social cohesion. On the basis of the findings the paper proposed policy recommendations for the best possible balance between religious freedom and state control, considering the need for societal cohesiveness, individual rights preservation, and respect for diverse religious beliefs.

Keywords: Religious Freedom, Public Policy, Religious Liberty, Religious Diversty, Religious Pluralism

INTRODUCTION

Law, religion, and public policy have a complicated and diverse relationship, especially when it comes to state control and religious freedom. This intricacy results from the historical entwinement of political and religious forces, which frequently causes conflicts between the necessity for government regulation and religious freedomⁱ. Every society handles this complex relationship in a different way, with different nuances and methods. This results in a wide range of realisations of religious freedom, greatly influenced by the particular socio-political environment. International law recognises religious freedom as a universal human right, although country interpretations and implementations of this right can be contentious and inconsistentⁱⁱ.

Given the rise in religious pluralism in many cultures, the conflict between preserving social order and allowing for religious variety becomes more and more importantⁱⁱⁱ. Even though religious freedom is widely acknowledged as a fundamental right, state laws occasionally place restrictions on its full exercise, sparking divisive discussions and legal disputes. This brings up important issues on how to balance people's rights to practice their religion or belief freely with the state's interest in upholding social cohesiveness and order. This study aims to investigate the intricate interaction between public policy, religion, and law, with a special emphasis on the relationship between state regulation and religious freedom. This paper tries to analyse how various civilizations balance these sometimes contradictory characteristics of society and organisation through a comparative analysis.

It is hoped that the study's conclusions will open up new lines of investigation and advance the continuing discussion about how religion influences public policy and legislation. The present study aims to investigate the following research questions: 1. How have public policy, religion, and law interacted historically in various nations, and how is this historical background influencing current state restrictions on religious freedom? 2. How are the legal and public policy frameworks of various nations interpreting and implementing the principle of religious freedom? 3. How may state restrictions on religious freedom be addressed, and what are the good and bad effects on freedom of religion? 4. How can nations reconcile respecting religious liberty with enforcing laws that are essential to maintaining public order and social cohesion? This study aims to provide a thorough analysis of the relationship between law, religion, and

public policy by looking into these research issues. By doing so, it wants to shed light on the difficulties and opportunities associated with maintaining religious freedom in the face of mandated state rules.

The aforementioned theme areas will be the focus of this paper from a comparative perspective. It will analyse the theoretical foundations of the interplay between public policy, religion, and law by consulting a range of academic literature and legal ideas. We will also look at particular case studies, with an emphasis on nations that provide a variety of viewpoints on the matter because of their distinct political, legal, and religious contexts. We'll examine the advantages and disadvantages of governmental restrictions on religious liberty as well as any unforeseen repercussions of these measures. Finally, taking into account the necessity for societal cohesiveness, the preservation of individual rights, and respect for varied religious beliefs, the study will propose policy recommendations based on the findings for the best possible balance between religious freedom and state control.

LITERATURE REVIEW

Previous Research

Previous studies in the domains of sociology, political science, law, and religious studies have all contributed to our understanding of the relationship between law, religion, and public policy. Studies by Fox and Sandal^{iv} and Cochran^v, for example, have examined the historical relationships between religious convictions and legal frameworks, charting the development of the idea of religious freedom and how it has been embodied in different legal systems. Durham and Ferrari's comparative analysis of religion and state in North America and Europe sheds light on the various approaches taken by these two regions to religious freedom within their respective legal and policy frameworks^{vi}.

Their study clarifies the various religion-state relations models that have evolved over time and how they affect public policy and religious freedom. Furthermore, Witte shows how the interpretation and application of religious freedom principles vary greatly across legal regimes in his substantial work on law and religion^{vii}. Witte offers a legal and historical perspective on the protection of religious freedom. Numerous empirical investigations have also been carried

out; Grim and Finke provide a worldwide quantitative analysis of governmental restrictions and religious freedom^{viii}. Their research highlights how social and political variables affect how much religious freedom there is in various nations.

Gap Identification

Notwithstanding the abundance of research on the topic, little is known about how other societies strike a balance between the demands of the state and religious freedom. Law, religion, and public policy interactions are frequently studied separately within narrowly defined national contexts, with less emphasis placed on comparative studies that provide a more comprehensive view. In addition, there is a dearth of thorough studies evaluating how state laws affect religious liberty, especially when it comes to these laws' unexpected outcomes. By performing a comparative analysis of many nations, looking at the effects and implications of state regulation on religious freedom, and providing useful suggestions for the best possible balance between these two factors, this study aims to close these gaps.

THEORETICAL FRAMEWORK

The Role of Law in Society

The law plays a complicated and diversified role in society. As Fuller pointed out, the law serves as a tool to establish social order, reduce conflict, and guarantee justice, in addition to being a collection of rules and regulations^{ix}. The law defines rights and obligations, establishes social norms, and acts as a behavioural guide. It also offers conflict resolution procedures, which promote societal stability. In addition, a society's beliefs and interests are reflected in its laws. Law, according to Pound, is the legal framework that allows a society's normative principles to be enforced^x. It is the crystallisation of those values. Furthermore, the legislation offers a structure for the management of religious liberty. Legal systems regulate religious practices and resolve disputes resulting from religious variety by means of legislation and the courts^{xi}. Furthermore, the law serves as a conduit between public policy and religion, allowing one to affect and be impacted by the other. In addition to providing guidance for the formulation of public policies that impact these rights, the law interprets and upholds the rights to religious freedom^{xii}.

The Concept of Religious Freedom

Every country's constitution and international law acknowledge religious freedom as a basic human right. Evans clarifies that the freedom of religion, conscience, and thought are all included in the concept of religious freedom^{xiii}. This covers the freedom to adopt a different religion or belief as well as the right to express one's religion or belief through practice, instruction, worship, and observance. Religious liberty is not unrestricted, though. It frequently has to be weighed against other needs of society, like upholding public order and defending other human rights, as noted by McConnell^{xiv}. Variable civilizations can have rather varied interpretations and applications of religious freedom because of their own historical, cultural, and legal settings.

The Influence of Public Policy

Public policy is an example of a government's collaborative efforts to address social issues and achieve specific goals. As Hill notes, public policy is the result of the government's collaborative decision-making process when it establishes goals and chooses courses of action to address societal issues^{xv}. Public policy has a significant impact on a nation's socio-political environment, especially when it comes to state restrictions and religious freedom. Public policies, depending on how they are drafted and put into practice, have the potential to either safeguard or restrict religious freedom, as shown by Grim and Finke^{xvi}. To summarise, this theoretical framework provides a clear understanding of the complex interplay between law, religion, and public policy. It also serves as a foundation for analysing how different cultures strike a balance between religious freedom and state rules.

RELIGION AND LAW: AN HISTORICAL PERSPECTIVE

The Evolution of Legal Frameworks on Religion

An essential component of human civilization has always been the interaction between religion and the law. In ancient societies, religious precepts were sometimes applied as laws, confusing religion and law. For instance, one of the oldest and most comprehensive written legal codes was the Code of Hammurabi, which was ingrained in society's religious morals and was found

in ancient Babylon^{xvii}. The Catholic Church's legal code, known as canon law, emerged during the Middle Ages. It had a significant impact on European law during this time and helped shape the legal systems of the contemporary West^{xviii}. Additional changes were brought about by the Protestant Reformation in the 16th century, as Protestant nations created their own legal systems that were different from Catholic canon law^{xix}. One significant transition period was the Enlightenment. As ideas like secularism and the separation of church and state gained popularity, secular legal systems emerged throughout the West. This represented a paradigm shift from the merging of religion and law to one that upheld religious liberty and preserved the secular state^{xx}.

Historical Case Studies

The United States: The First Amendment

The First Amendment established a fundamental framework for the interaction between religion and the law in the United States. It prohibits Congress from passing legislation pertaining to the establishment of a religion or restricting the free practice of it, and it was established in 1791. This amendment established the foundation for religious liberty in the United States and influenced the legal system through seminal cases like *Sherbert v. Verner*^{xxi}, which significantly affected the Free Exercise Clause, and *Everson v. Board of Education*^{xxii}, which interpreted the Establishment Clause^{xxiii}.

The Ottoman Empire: Millet System

The Millet system provided an intriguing contrast with the Ottoman Empire. Every religious group, or millet, was free to run its own affairs, including marriage, divorce, and property, in accordance with its own set of religious regulations. Although this system allowed for the multiplicity of religions inside the Empire, it also served to further exacerbate religious tensions and occasionally create unfairness amongst various religious groups^{xxiv}.

India: Personal Law System

In India, the personal law system reflects a different approach to religion and law. Under this system, religious communities are granted their own rules in personal matters, including marriage, divorce, and inheritance. This approach acknowledges India's religious variety but has also led to continuous discussions about the uniform civil code and the contradiction

between religious freedom and gender equality (Parashar, 1992)^{xxv}. These historical viewpoints demonstrate the range of techniques cultures have attempted to use to handle the junction of law and religion, giving significant context for understanding present legal frameworks and public policy.

COMPARATIVE STUDY

Methodology

This research uses a comparative analysis methodology to look at how public policy, religion, and law interact in various nations. It makes use of historical research, policy reviews, and legal analysis to acquire an understanding of how each nation handles state laws and religious freedom (Teitelbaum, 2019). The foundation of this research is comprised of primary sources, such as government policies, court cases, legislation, and constitutional requirements. Academic books, reports, and articles are examples of secondary sources that offer more background and insight.

Selection of Countries for Comparative Study

Three nations are chosen for the study: Saudi Arabia, India, and the United States. These nations were selected because they provide valuable comparative insights due to their distinct political, legal, and religious environments. Given its unwavering commitment to the First Amendment's guarantee of religious freedom, the United States offers an intriguing case study of a secular country where law and religion coexist^{xxvi}. A different example is Saudi Arabia, where the state religion is practiced without separating church and state and Sharia law is the supreme rule of the kingdom^{xxvii}. Another novel approach to the interplay of religion and law is found in India, where the personal law system reflects the country's pluralistic society^{xxviii}.

Examination of Case Studies

United States

The First Amendment of the US Constitution serves as the foundation for the country's policy towards religious freedom. In order to comprehend how the United States has understood and

implemented its commitment to religious freedom, the study looks at significant Supreme Court decisions, including *Sherbert v. Verner* (1963)^{xxxix} and *Everson v. Board of Education*^{xxx} and *McConnell*^{xxxi}.

Saudi Arabia

Saudi Arabia is a unique example of how state and religion are closely related. This study examines the impact of Sharia law on public policy, the role it plays in Saudi Arabia's legal system, and its implications for religious freedom, especially for religious minorities^{xxxii}.

India

India provides a distinct case under their personal law systems. The study looks into how this system affects religious freedom and equality by allowing various religious communities to have their own laws on personal status^{xxxiii}.

ANALYSIS AND COMPARISON

Ultimately, a thorough examination and comparison of these three nations will be conducted, examining their similarities and differences. This analysis will take into account how each country's cultural, historical, and political context influences its legal and public policy approach to religious freedom. It will examine the ways in which these divergent perspectives have impacted individual liberties, social cohesion, and the general place of religion in public life.

Influence of Religion on Law

Religion has a profound and wide-ranging impact on law, influencing the moral, ethical, and legal framework of nations all over the world. Sharia law, which derives its legal ideas from the Quran and Hadith, governs both public and private life in nations like Saudi Arabia, where religion and state are closely linked^{xxxiv}. Religion has a less but still important impact on law in secular countries like the United States. For example, religious perspectives are frequently included in public discussions of moral issues like abortion, euthanasia, and same-sex marriage. These perspectives might eventually influence legislative decisions and court rulings^{xxxv}.

Similar to this, religious influence is seen in pluralistic nations like India through private laws that are tailored to the needs of various religious groups. Debates surrounding a uniform civil code demonstrate this effect and illustrate the difficulties in incorporating religious diversity into a legal framework^{xxxvi}.

Public Policy and Religious Freedom

Crafted within the confines of the law, public policy frequently has to negotiate the intricacies of religious freedom. Governments can create laws to protect religious freedom, respect religious differences, and stop prejudice. These could be rules pertaining to religious clothing, anti-discrimination laws, or requirements for religious education^{xxxvii}. However, there is frequently conflict at the interface between religious freedom and governmental policy, particularly when those measures go against religious beliefs. Laws that support LGBTQ+ rights, for instance, may clash with some religious beliefs, leading to difficult discussions concerning the relative importance of human rights and religious freedom.

Balancing State Regulation and Religious Freedom

The crux of legal and policy considerations is striking a balance between religious freedom and governmental regulation. While under regulation may permit detrimental actions carried out in the name of religion, overregulation runs the risk of restricting religious freedom. Legal systems such as those in the United States have grappled with these quandaries, employing the notion of "strict scrutiny" to strike a balance between First Amendment rights and compelling state interests in instances like *Burwell v. Hobby Lobby Stores*^{xxxviii}, *McConnell*^{xxxix}. Maintaining the integrity of religious practices, individual rights, and society demands all need to be carefully considered in striking this balance. Because every society is different in terms of its historical development, cultural background, and religious makeup, there may be differences in the ideal balance.

CASE STUDY: IMPACT AND IMPLICATIONS

Positive Impacts

The interaction of religion, law, and public policy can have a variety of beneficial effects. Religious principles, for example, can serve as the basis for legislation and governmental policies that are humane and support equality, charity, and social justice. Religious principles have driven social justice and civil rights movements in the US^{xl}. Furthermore, by permitting people of different religious beliefs to coexist, legislation defending religious freedom favourably impacts societal peace and stability. This is seen in India, where there are people with a wide range of religious beliefs and where the personal law system, despite certain difficulties, has managed to preserve a semblance of social peace^{xli}.

Negative Impacts

When religious convictions clash with secular laws or governmental policy, bad things can happen. Sometimes, policies that marginalise or violate the rights of certain communities are influenced by religious views. For example, legislation that discriminates against women or LGBTQ+ people is justified in some countries based on religious teachings^{xlii}. Furthermore, religious freedom may occasionally be restricted by official regulations. Religious minorities' rights may be harmed by limitations on non-majority religions in nations like Saudi Arabia^{xliii}.

Unintended Consequences

When attempts to harmonise public policy, law, and religion have unexpected results, they might have unintended repercussions. Legalising religious differences, for instance, could inadvertently lead to new societal divisions or worsen already-existing ones. This is evident in India, where personal laws have occasionally hampered social integration and strengthened sectarian identities (Baird, 2015). Moreover, safeguarding religious liberty may unintentionally condone detrimental actions masquerading as religious beliefs. This conflict between defending religious liberty and averting injury presents difficult moral and legal issues.

POLICY RECOMMENDATIONS

For Legal Systems

Legal institutions should work to uphold the ideals of religious freedom while also guaranteeing equal rights for all citizens. Maintaining a balance between universal human rights values and respect for religious traditions is vital. This could entail:

- a. enforcing anti-discrimination legislation to shield religious minorities from unjust treatment.
- b. Examining and amending legislation that, in the name of religious freedom, discriminates against particular groups or upholds damaging religious practices.
- c. Creating jurisprudence that strikes a compromise between upholding social justice and safeguarding religious freedom^{xliv}.

For Religious Institutions

Social standards and behaviour are greatly influenced by religious institutions. As a result, it is their duty to promote an atmosphere that upholds social harmony and protects human rights. The following are recommendations for religious organisations:

- a. encouraging interpretations of religious teachings that are consistent with the values of justice, equality, and nondiscrimination.
- b. holding interfaith discussions to improve respect and understanding between various religious communities.
- c. working with lawmakers and legal authorities to remove detrimental practices in religious communities^{xlv}.

For Policy Makers

When creating policies, public policy makers ought to consider the religious dynamics present in their communities. They ought to support shared civic ideals and tolerate religious pluralism. Policymakers should consider the following recommendations:

- a. enacting laws that safeguard religious minorities' rights and guarantee their equal involvement in public life.
- b. Taking into account how policies can affect religious communities and interacting with them in policy debates.
- c. Developing laws that can effectively handle religious diversity, promoting social cohesiveness as opposed to divisiveness^{xlvi}.

CONCLUSION

Recap of Findings

The analysis of the relationship between religion, law, and public policy has produced a number of significant conclusions. According to this research, religion has a significant influence on law in a variety of contexts, from civilizations where state and religious law coexist to secular governments where religious principles influence laws and public policy. Distinct methods for this balancing act show the particular historical, cultural, and religious circumstances of each civilization. Moreover, the difficulty of striking a balance between religious freedom and governmental regulation has emerged as a common topic across varied countries. Laws that marginalise or violate the rights of particular groups due to their influence on religious teaching can have negative consequences. Positive effects do, however, also result when laws and public policies are motivated by religious principles and promote compassion, or when the legal safeguarding of religious liberty promotes social harmony and stability.

Future Research Recommendations

To go deeper into the subjects covered in this paper, more investigation is advised. Scholars may investigate how international law influences how states regulate religion while also looking at the relationship between law, religion, and public policy from a human rights angle. Further research focusing on individual nations would further improve our comprehension of the ways in which these intersections manifest in various social settings. As social media and digital platforms become more important forums for religious expression and public policy

discussions, future studies may also examine how these platforms shape the relationship between law, religion, and public policy.

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