

ABUSE OF THE LEGAL APPARATUS FOR THE RECOGNITION OF RELIGIONS AND ITS DETRIMENT ON RELIGIOUS FREEDOM CONDITIONS

Provisional research question: Do recognitory and commercial restrictions imposed on religious organisations around the world cause impediments to freedom of religion?

Keywords: anti-religion, counterforce, freedom of religion, hypersecularism, religious favouritism, religious pluralism, religious restriction, restriction tool, state atheism, state religion, religious recognition.

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Introduction

Provisional title – Abuse of the legal apparatus for the recognition of religions and its detriment on religious freedom conditions.

Provisional research question – Do recognitory and commercial restrictions imposed on religious organisations around the world cause impediments to freedom of religion?

In their 2020 International Religious Freedom Report, the United States Commission on International Religious Freedom (USCIRF) detailed the recognition processes for religious organisations by country. Although the dynamics of religious restriction were acknowledged (USCIRF, 2020), the data alone did not explicate the possible link between the abuse of recognition systems and issues such as religious freedom violations, forced migration, discrimination, and terrorism. This project is primarily concerned with how the legal apparatus of religious recognition could be abused by governments and why this may be fundamental to the conditions of religious liberty (Bielefeldt, 2011). Religious recognition denotes the mechanism for the legal registration of religious institutions in a country; government recognition normally permits institutions to conduct commercial operations and religious services legally.

Abuse of such a system may include a deliberate bureaucracy bias against some groups to make legal registration difficult to obtain (The Law Library of Congress, 2018). This can entail requests for members' personal details to store in databases for surveillance purposes (USCIRF, 2020), or the weaponisation of terms like cult, foreign religion, and extremism against religious groups that the state does not approve of e.g. Jehovah's Witnesses in Russia (Baran, 2020; Galperin & O'Brien, 2016). Studies of religious restriction divide the topic into government restriction and social hostility (Kishi & Schiller, 2018); government restriction is the focus for this research as the potential misuse of recognition systems by governments and political parties will be explored. Secondly, this study seeks to determine whether the commercial operations of religious institutions contradict religious principles (Meyler, 2009) and how governments may use recognition systems to restrict religious commerce e.g. the selling of religious texts or the collection of donations. Thirdly, determining whether economic freedom is relevant to religious freedom conditions will be important to this project's study of the intersection between business, religious recognition, and freedom of religion (Clark et al., 2014).

Overall, there is a lack of knowledge regarding how the abuse of mechanisms of religious recognition could be fundamental to religious freedom conditions. Understanding how this

manipulation of recognition could be resolved through policy amendments and the promotion of economic prosperity is also central to this research. Highlighted here is a definitive gap in the current literature for an analysis of how cultural and political environments considered detrimental to religious minorities could be underpinned by abused processes of recognition. This project will contribute to knowledge by introducing new theories to clarify what religious recognition entails and how it may be misused. Furthermore, this research will develop the existing literature by recommending how recognition systems could be changed to reduce their detriment to minorities and subjugated communities.

The 2019 Pew report on religious restrictions (Cooperman et al.) explored the alarming rate at which limitations on religious institutions had increased globally from 2007 to 2017. This included excessive registration processes that sought to restrain religious activity as well as the practice of offering no legal protection for minorities e.g. China's network of underground churches whose recognition has long been denied (Wenger, 2004). That report and another similar article (Cooperman et al., 2017) raise concerns over how numerous countries may misuse religious recognition to favour certain religions over others. This provides recent evidence for the upward trend in government restrictions on religion via an apparatus of recognition¹ which is presented as a major freedom of religion issue (Kishi & Schiller, 2018).

Noting the upward trend in restrictions and the gap identified in the literature, this project's research area is both distinctive and relevant. By exploring how religious freedom might be threatened by the misuse of recognition and commercial restrictions, the primary goals of raising greater awareness and harnessing a better understanding of the issue will be achieved. This project will contribute to knowledge in three main ways; firstly, by providing an analysis to determine whether recognition systems are indeed the underlying cause to violations of religious freedom which will be supported by interviews with leading figures in the field. Secondly, the study aims to identify and classify which specific restriction tools stem from an abused system of recognition. Thirdly, this project will uniquely explore the intersection of business, religious recognition, and freedom of religion (Kurenlahti & Salonen, 2018; Stearns, 2006; Ulusoy, 2015). The fact that this intersection has yet to be sufficiently explored is another testament to the originality of this project which further highlights its distinctiveness.

This research carves out a space in the existing literature between similar legal mechanisms that may restrict religious freedom, such as the use of citizenship laws as seen in India recently (Bhat, 2019), or the French and Chinese government restriction of religious clothing (Cooperman et al., 2016). The research will stand alongside these existing discussions by exploring how religious recognition systems can be manipulated, why this is occurring, the possible consequences of this, what countermeasures could be put in place to stop this and what other forces may naturally arise to combat this abuse of recognition (Durham, 2010).

¹ refers to the government system and its set of policies established for purpose of recognising religions or religious organisations in a country; similar terms used include 'religious recognition apparatus' and 'recognition mechanism'.

The main research question that this project asks is: *Do recognitory and commercial restrictions imposed on religious organisations around the world cause impediments to freedom of religion?*

Further research questions branching from this central enquiry include:

- Is the imposition of commercial restrictions on religious institutions a freedom of religion issue?
- What techniques of restriction could be included in a religious recognition apparatus?
- By what avenues can religions be legally recognised?
- What types of religions could be adversely effected by the abuse of recognition systems?
- What recommendations can be made to help resolve the potential issues arising from government systems of religious recognition?
- Is a free-market economy the remedy to religious freedom repression?

The research question of this project is highly original because although it sits within the widely researched area of religious freedom, it focuses on the niche of religious recognition. The question's originality is also highlighted through its amalgamation of business, religious recognition and religious freedom and how the former two elements positively and negatively influence the conditions of the latter (Ikäheimo, 2019). Finally, this study aims to:

- Analyse religious freedom reports and country constitutions to determine the current extent of recognition misuse and how this misuse may impact religious freedom conditions.
- Complete at least fifteen interviews with key figures working in religious freedom advocacy.
- Define and explore restriction tools included as part of a religious recognition system.
- Explore whether religious freedom, religious recognition and economic prosperity are symbiotic.
- Make recommendations on how policies and laws could be altered to reduce the damage on freedom of religion possibly caused by the abuse of religious recognition apparatuses.

Methodology

This project aims to determine whether government mechanisms for recognising religions could be fundamental to establishing legal and cultural environments in which religious liberties are subjected to repeated violation. There exists three strands to the research methodology:

- To conduct at least fifteen interviews with religious freedom commissioners to explore whether recognition systems impact religious freedom conditions.
- Supplementary use of journal articles as well as governmental and non-governmental reports that document religious freedom conditions.
- Supplementary use of national constitutions as direct sources regarding religious freedom policy and how governments frame their approach to recognising different religions. The analysis of these constitutions will be validated by academic sources that study constitutional terminology.

As this study will concentrate on countries where foreign travel is limited due to the COVID-19 pandemic and where the discussion of religious freedom issues is dangerous, collecting data in person will be unrealistic for a single individual to undertake. Each interview will follow a semi-structured approach which will allow for greater elaboration on key topics that fully structured interviews often don't permit; access to interviewees will be made through pre-existing contacts and interview requests. Due to the prominence and specialisms of some participants, it may be more appropriate to waive anonymity in which case permission from the participant will be gained, both during fieldwork and during the project's dissemination. These permissions will be obtained through research consent forms to ensure participants are protected at each stage of the project. Due to the ongoing pandemic, interviews will take place via Zoom; these will be recorded and transcribed. All sensitive data – including recordings, transcriptions and field notes – will be kept in a secure location and only ever accessed by the researcher.

To address the notion that recognition systems are potential religious freedom inhibitors, this project will:

- Explore the philosophical discourse of recognition theory (Honneth, 1996; Taylor, 1992).
- Compile data from sources such as the UN Special Rapporteur on freedom of religion or belief (OHCHR, 2020), USCIRF, and the Pew Research Center (The Religious Studies Project, 2018).

- Analyse this data with support from interviews with key figures in religious freedom.
- Conduct a comparative study of countries where the apparatus of recognition may be abused to restrict religion (USCIRF, 2020).

To manage the breadth of this project, the chosen segmented structure will create five parts, each consisting of numbered sections and subsections. Parts 2 to 4 will be considered the core research parts and are provisionally titled *An analysis of business and religion*, *Legality of religious organisations*, and *Impacts on freedom of religion* respectively. Parts 1 and 5 will constitute the introduction and the conclusion/recommendations respectively. To deal with the workload, Parts 2, 3, and 4 will be researched and written consecutively. This approach will allow time for considering how each part links to the next through signposting to interconnecting theories as a way of maintaining fluency and consistency. Regarding figures or diagrams used, these will be positioned in-text to ensure a professional layout for the research.

There are several key sources beyond academic journals that this project will use for secondary data. The decision to split these additional sources into two types has been made as part of the overall methodology; nine reports and twelve organisations² whose endeavours include religious freedom protection and reporting on religious freedom conditions. Using data from this variety of organisations will allow for the project to maintain its credibility as all conclusions made will be based on multiple sources from a plurality of perspectives.

The most comprehensive report that this project will use is the International Religious Freedom Annual Report by USCIRF, an American bipartisan federal commission appointed to monitor religious freedom around the world. Notable is the exclusion from monitoring the United States itself which highlights the main criticism of USCIRF; that its efforts are partial to an American worldview. This raises concerns over the commission's objectivity as the State Department has the final say over policy regarding religious freedom. Despite these concerns, USCIRF's annual report remains the most extensive regarding global religious freedom; critical to this project is the report's section on recognition systems.

The Pew Research Center dedicates some of its operations to reporting on religious restriction which provides a set of useful sources while another series of reports intended for use are those produced by the UN Special Rapporteur on freedom of religion or belief. The Special Rapporteur provides insight into religious freedom conditions with an array of themes but crucially, UN reports don't suffer from national bias. Other reports of interest include Freedom in the World, The Foreign

² The twelve organisations working in the area of religious freedom whose materials will be used by this project include: International Panel of Parliamentarians for Freedom of Religion or Belief, United States Commission on International Religious Freedom, All Party Parliamentary Group for International Freedom of Religion or Belief, Religious Freedom Institute, Religious Freedom & Business Foundation, OHCHR, Human Rights Without Frontiers (HRWF), Freedom House, Open Doors, Human Rights Watch, Global Terrorism Database (to be used for linking terrorism to abuse of religious recognition), Association of Religion Data Archives and Amnesty International.

& Commonwealth Office Report on Human Rights & Democracy and the State Department Country Reports on Human Rights Practices, each of which include religious freedom segments. The EU Annual Report on Human Rights and Democracy in the World also consists of sections that address religious freedom conditions and in some cases, these explore the use of recognition as a restriction tool (Borrell, 2019). Finally, the Open Doors World Watch List will become a useful resource for exploring restrictions impacting Christian communities specifically. With up to 80% of religious persecution overall directed towards Christians (NowThis World, 2015), this resource will help to determine how recognition systems may be used to especially disenfranchise Christians around the world.

Literature review

Much of the existing literature in the field is based upon recognition theory. Recognition theory explores the philosophy of recognition; namely, the characteristics, purpose and benefits of recognition in whichever sphere it is applied. Central to the project's research is the application of the philosophy of recognition to the context of governments recognising religion. Fundamental in this line of research is Axel Honneth, chosen for his theory of recognition which was key to establishing discourses on recognition theory (Honneth, 1996; Mookherjee, 2017). It is Honneth's work that later writers like Charles Taylor (1992), Paddy McQueen (2015), and Heikko Ikäheimo (2019) based their own positions upon. Also, Risto Saarinen's work *Recognition and Religion* (2016) precisely applies such theories of recognition to the contemporary situation of religion which propels his work to become a central text for the project.

Tackling the issue of religious legality and recognition is Professor Cole Durham who specialises in how religious community structure is impacted by law and religious freedom policy (Durham, 2010). Durham's work helps to corroborate this project as he discusses how an abused system of recognition is fundamental to maintaining a culture of religious repression. However, some of Durham's works on this topic were written in the late 1990s (Durham, 1999); the world has changed significantly since then which highlights a need for an update to the literature. Another major author in the field is UN Special Rapporteur, Heiner Bielefeldt. Bielefeldt's incumbency saw him report on the issue of religious recognition abuse (2011) and he continues to publish works on religious freedom (Bielefeldt, 2018). Other academics whose efforts complement the empirical findings of Bielefeldt include Effie Fokas (2018) and Otmar Oehring (2019). Whilst offering an update to the philosophical discourse of recognition theory, Gábor Halmai's works on state-church relations (2017) also provide further corroboration for how recognition misuse by some governments may severely impact the conditions of religious liberty (2015).

Exploring the intersection of business, religious freedom, and religious recognition is Brian J. Grim, president of the Religious Freedom & Business Foundation, whose writings offer corroborative support to the notion that an open economic system is essential to achieving and maintaining a positive environment for religious freedoms to flourish (Grim, 2014; Clark et al., 2014). Grim's efforts, both academically and practically, have inspired the basis of this project, however, it is Max Weber's theory of the Protestant work ethic that lays the foundation for the notion that religious freedom and business practice are symbiotic (Weber, 2003, originally 1930). It is Weber's theory that ignited the discussion of the relationship between business and religion with particular relevance to the research of the project (Gürtler, 2018). In addition to Roger Finke (1990) and Robert Hefner (2015), the works of Dr. Gregory Chase (Chase, 2014; Chase, 2016) and

Professor Ilan Alon (Alon & Chase, 2005; Alon & Spitzer, 2013) will be central to exploring the relationship between business and religion. Additionally, to discuss the ethics of religious commerce, the works of Bernadette Meyler (2009) and related reports will be adopted (CRL Rights Commission, 2017). Finally, other key authors include Anthony Gill and John Owen whose discussion of economic prosperity and religious liberty make for essential reading (Gill & Owen, 2017).

Finally, to help identify how government policy and business activity may be used to reduce the negative impacts of recognition systems, the works of Johan David van der Vyver (1996) and Carolyn Evans (2001) will be used. Their scholarship is corroborative regarding the premise of the project and will be central to understanding how religious freedom is achieved and maintained which links to the project's overall goal. Other academics writing in this area include Michael Wiener, Nazila Ghanea and Elena Ervas while John Witte Jr. and Karen Murphy (2013) provide further academic voices to the subject of religious freedom. Although published in the mid 1990s, Eric Kolodner's work *Religious Rights in China* gives insight on the Chinese government's extensive apparatus for restricting religion. Although this mechanism has altered in both scope and capability, it remains grounded to a series of fundamental principles that Kolodner's work reveals (Kolodner, 1994). Katayoun Kishi's work at the Pew Research Center provides another voice in the discussion of religious recognition as a manipulated system causing religious repression which further (The Religious Studies Project, 2018). The work of Aernout Nieuwenhuis (2012) will be important in explaining the state of relations between religion and government, both in the past and the contemporary, and so Nieuwenhuis joins the cohort of academic sources set to be reviewed in the research.

Schedule

Time Period	Anticipated Activities
<p>Year One</p> <p>January 2021 – March 2021</p>	<p>In-depth reading around topics from Part 2, including:</p> <ul style="list-style-type: none"> • Definition of freedom of religion, its components, prevalence in the world, and its relationship with other universal human rights. • The different types of processes for religious recognition, how these differ from nation to nation, beginning to categorise and link these processes together, establish a clear conception of the current state of how religions and religious organisations are recognised by governments around the world. • How and why governments use the apparatus of religious recognition to restrict religious activity, what specific tactics are employed to succeed in this endeavour • How this restriction of religion caused by lack of or bureaucracy in legal recognition impacts on the conduct of business/commercial operations for the religious organisation (e.g. the collection of donations, missionary work, religious text distribution etc.)
<p>April 2021 – June 2021</p>	<ul style="list-style-type: none"> • Preparation of Literature Review for Part 2 • Conducting interviews relevant to Part 2 • Collection of preparatory notes, planning the in-depth structure of Part 2 (e.g. allocation of sub-sections). • Further preparatory works for Part 2 • Building references/bibliography for Part 2
<p>July 2021 – September 2021</p>	<ul style="list-style-type: none"> • Begin first draft of Part 2

<p>October 2021 – December 2021</p>	<ul style="list-style-type: none"> • Complete draft of Part 2. The completion of a draft of Part 2 will allow for me to better understand how Part 3 can be structured build upon Part 2. I will also be able to link the research from Part 3 back to Part 2 more easily if a draft of Part 2 is complete.
<p>Year Two January 2022 – March 2022</p>	<p>In-depth reading around topics from Part 3, including:</p> <ul style="list-style-type: none"> • Literature concerning the morality of religious commercialisation, the necessity for religious organisations to resemble businesses to survive, the role of social media in the debate around the ethics of religious commerce. • The intersection between freedom of religion, business conduct and an open economy. • Religious marketing and advertising as resembling religious freedom, the role of religious marketing in the survivability of new religious movements and how this relates to the forced commercialisation of religion. • The options for setting up a religious organisation (use of the UK as a case study and six other examples from each region of the world).
<p>April 2022 – June 2022</p>	<ul style="list-style-type: none"> • Preparation of Literature Review for Part 3 • Conducting interviews relevant to Part 3 • Collection of preparatory notes, planning the in-depth structure of Part 3 (e.g. allocation of sub-sections). • Further preparatory works for Part 3 • Building references/bibliography for Part 3
<p>July 2022 – September 2022</p>	<ul style="list-style-type: none"> • Begin first draft of Part 3
<p>October 2022 – December 2022</p>	<ul style="list-style-type: none"> • Complete draft of Part 3 • Begin first draft of Part 4 (Part 4 will be a discussion section for the research conducted in Parts 2 and 3. Although some separate reading is likely to be needed for Part 4, this will be considerably lower in volume in comparison to Parts 2 and 3 and will not require as much time to collect.)

<p>Year Three</p> <p>January 2023 – March 2023</p>	<ul style="list-style-type: none"> • Finish draft of Part 4 • Finish first draft of Part 5 (conclusion and recommendations) • Final write up begins (First total draft)
<p>April 2023 – June 2023</p>	<ul style="list-style-type: none"> • Final write up continues (Editing first total draft and beginning second total draft)
<p>July 2023 – September 2023</p>	<ul style="list-style-type: none"> • Final write up continues (Editing second total draft)
<p>October 2023 – December 2023</p>	<ul style="list-style-type: none"> • Completion of Final Write-up (Editing third total draft)

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