

*Regulating Religion in Asia: Norms, Modes and Challenges*. Edited by Jaclyn L. Neo, Arif A. Jamal, and Daniel P. S. Goh. Cambridge: Cambridge University Press, 2019. Pp. 325. \$130.00 (cloth); \$35.99 (paper); \$29.00 (digital). ISBN: 9781108416177.

*Regulating Religion in Asia*, edited by Jaclyn Neo, Arif Jamal, and Daniel Goh, is a valuable resource for academics and people interested in the region. Rather than concentrating on broad constitutional rights, such as the right to freedom of religion, the contributing authors to this volume focus on particular regulations as they examine the relationship between the state and religions. Their chapters also address the issue that before religion is regulated, the term *religion* itself needs to be defined, a process that is neither simple nor uncontroversial.

To date, much of the study of law and religion has focused on Western jurisdictions, but this book examines how Asia's distinctive history, demography, and politics have shaped the regulation of religion. The situation in Asia differs greatly from the West, where the state's relationship with religion has been formed largely by its relationship with Christianity. In Asia, colonial history has resulted in nominally secular forms of government, but as the authors demonstrate, secularist ideas have never been fully adopted in this region, where the state has a greater degree of involvement in religion.

As Neo, Jamal, and Goh comment in the introduction, the Asia-Pacific region is one of the most religiously diverse in the world, with 25 percent Hindu, 24 percent Muslim, 12 percent Buddhist, 9 percent adherents of folk religions, 7 percent Christians (Protestant and Catholic), and 21 percent unaffiliated (2). There are countries, such as Indonesia, that acknowledge different religions but have a majority religion, while in other countries, such as Singapore, the spread of believers is more diverse. Some countries have state religions—for example, Buddhism in Cambodia, while Islam is the state religion of Malaysia, Bangladesh, Pakistan, and Brunei (3)—but no majority tradition dominates the region unlike in other parts of the world.

By primarily focusing on one country for each chapter, this book reflects the diversity of the region and the differing methods employed by the states to regulate these religions. Given that the title of the book refers to Asia, however, the inclusion of three chapters on the Middle East—Shai Wozner and Gilad Abiri's chapter on Israel and Mirjam Künkler's and Haider Ala Hamoudi's chapters on Iran—seem out of place. Their inclusion is unexplained by the editors, who refer to the Middle East as a separate region from Asia in their introduction (2, 4). To include two chapters on Iran is even more surprising, given that only one other country, Singapore, is represented by two chapters. While the chapters on the Middle East were interesting, I felt that the book would have been more coherent without them. For a region that is already as diverse as Asia, there seems little reason to insert additional chapters about other regions.

The book is organized into three parts. The first deals with the theory of regulation (chapters 1–5), the second with state practice and legal norms (chapters 6–10), and the third with challenges to state regulation (chapters 11–14).

## THE THEORY OF REGULATION

Opening the section with his chapter, “Regulatory Markers,” Jamal first describes the context for regulation of religion in Asia. He presents statistics on the demographics, that is, what percentage of the population adheres to which religion in the Asian region and how these percentages are changing. He then analyzes the category “religion,” arguing that many characteristics of Asian beliefs do not fit neatly into the definition that has evolved from Western and Abrahamic faiths, and comments that religions may make different claims on the state. Not only does the state have to deal with different faiths, but there can be problems of interfaith differences, which affect the regulation of religion. In recent times, the state must also deal with polarization, caused by more “assertive” or “fundamentalist” forms of religion; Jamal then posits five possible roles of the state: legislative, judicial, administrative or bureaucratic, political, and “expressive” (27–29). Jamal then sets out five regulatory markers: (1) the challenge of defining religion; (2) avoiding definitions which rely on essential practices of religion and being alert to diversity; (3) embracing regulatory dynamism; and (4) dialectical regulation, which indicate a willingness to change regulations according to changing beliefs and conditions; and (5) embracing epistemic plurality (30–35).

In “Conceptualizing the Regulation of Religion: A Preliminary Framework for Inquiry,” Jaclyn Neo argues that understanding religion needs to go beyond an understanding of constitutional law and private law, which focus on claims to religious freedom, and the boundaries between the state and religion, although both affect the state’s ability to regulate—a liberal-secular state, for example, is unlikely to regulate religion heavily. Regulation can involve registration of both groups and teachers, the involvement of state bureaucracies to administer activities, such as *zakat* (Islamic alms) or the *haj* (pilgrimage). There is also co-regulation between the state and religious bodies, such as Majelis Ulama Indonesia (the Indonesian Ulama Council), and “self-regulation,” where organizations have internal rules—these are typically not binding (44–51). Regulation can also be indirect. For example, noise pollution regulations could affect the broadcasting of Muslim prayers. In nonliberal states, religious harmony laws can be heavily enforced, as can religious uniformity and the regulation of religion as a form of social control.

With a focus, as noted, on Israel, Wozner and Abiri discuss the conflict between the state and orthodox groups and suggest that this conflict is part of a struggle for ultimate authority and the need to protect the sacred.

Benjamin Schonthal focuses on bureaucratic processes of regulating religion in Buddhist-majority states, concentrating particularly on Thailand and Sri Lanka. Thailand’s regulation of monasteries is mostly in the hands of royal and government officials, while in Sri Lanka, the monks have more power and autonomy. Regulation in Thailand focuses on membership, hierarchy, and discipline, while in Sri Lanka regulation is largely involved with adjudicating disputes over temple property. In Thailand, monks and other religious leaders are disenfranchised but in Sri Lanka monks can vote and run for and hold office. Schonthal comments that “[t]he legal regulation of religion in South and Southeast Asia involves state limitations on things like proselytising, ritualising and praying. However, equally importantly, regulating religion involves the organisation and oversight of religious institutions and authority. In the contexts of Buddhist constitutionalism in Thailand and Sri Lanka, the management of the Buddhist monkhood constitutes a key focus for regulation. That is, defining and supervising Buddhist clerical institutions and power have been absolutely central tasks for government officials, lawmakers and judges” (96–97).

In the last chapter of the first section, Kevin Fogg comments that before regulating religion, the question needs to be answered: “What constitutes religion?” (101). Upon independence in 1945, Indonesian government officials were forced to make the decision of prioritizing people’s rights

to believe and practice as they wished, or to support the homogenization of religious practices. Initial efforts were focused largely on promoting interreligious harmony, but over time officials first attempted to document the vast array of different religious groups and then started to adopt a stricter approach, particularly as tension arose between 1958 and 1965 between Muslim groups and Communists. By the end of the 1950s, a religion was defined as having “a God, a Prophet and a Holy Book” (113). By the 1970s and 1980s, under Suharto’s New Order, religion became a mandatory category on identity cards, with a choice of only five religions. Under post-Suharto Reformasi, there has been a loosening of tight regulations, but, as Fogg comments, “it is useful to remember that the Indonesian state did not always limit itself to a small list of acceptable categories (as popular memory would suggest). It also bears remembering that the initial legislative impetus was to protect freedom of belief and freedom of conscience in their broadest possible meaning” (116).

### STATE PRACTICE AND LEGAL NORMS

The case studies that make up the five chapters in part two of *Regulating Religion in Asia* explore different ways that individual states regulate religion.

Thio Li-ann examines regulation of religion in Singapore, which she describes as adopting “principled pluralism,” that is, not having oppressive laws regulating apostasy, blasphemy, heresy, and religious propagation and rejecting theocratic rule, militant secularism, and “a radical form of multiculturalism,” which “robs society of the ability to make authoritative judgements on unjust cultural or religious practices” (120). She describes five broad postures that the Singaporean government has adopted in regulating religion: controller, cooperative partner, consultative leader, constant calibrator, and culture war manager.

In the following chapter, Bui Ngoc Son examines the regulation of religion in the socialist state of Vietnam. He examines the 2004 Ordinance on Belief and Religion, which regulates religious activities, organizations, assets, and international activities; and the more recent Law on Belief and Religion of 2016, which provides more freedom of religious belief and makes the recognition of new religious organizations easier. Bui Ngoc Son comments that the socialist state is careful to regulate religions to protect its own institutional space but the space for religions to operate appears to be increasing.

Nyi Nyi Kyaw then discusses the role of Ma Ha Na, the State Sangha Maha Nayaka Committee, established in 1980, in regulating illegal Buddhist sects, ideologies, and practices in Myanmar, which in its constitution recognizes Buddhism as the predominant religion. In 1980, Ma Ha Na was influential in setting up Vinaya tribunals—similar to a monastic judiciary—to try cases of suspected deviant teachings. Only two such trials have led to imprisonment, but the power of tribunals is such that monks usually acquiesce to the verdict of the tribunal. Nyi Nyi Kaw states that “[t]he regulation and punishment of the sects have been carried out through the combined power of the state and the senior Sangha [monastic community]. . . . [T]he synergistic relationship between the two entities in the past has unfortunately resulted in violations of the *minority* Buddhist sects’ right to freedom of religion” (186).

Mirjam Künkler examines state regulation of religious education in Iran, particularly focusing on women’s education and the consequences of the state’s efforts to bureaucratize Shi’ite seminaries. She views this less as depoliticization than a move “to ensure that debate and contestation on the basis of religion remain within officially defined discursive spaces” (206).

Closing the section, Jianlin Chen and Loveday J. Liu discuss the regulating of charitable activities by religious organizations in China and, in particular, the 2016 Charity Law. Using law and religious market theory, Chen and Liu argue that religious competition can be regulated in a similar way to economic competition.

## CHALLENGES TO STATE REGULATION

The four chapters in the final section discuss the limits of regulation. As Neo, Jamal, and Goh describe this section, “There are three themes that thread through the chapters. The first is that the secular and the religious are produced by institutional politics conditioned by historical traditions and colonial legacies. The second is that the institutional politics are sparked by social actions of individuals and communities responding to state regulation and vice versa. The third is that institutional politics take place in the context of legal pluralism, in which the legal pluralism influences the politics and is at the same time impacted by the politics” (14–15).

Matthew Nelson and Dian A. H. Shah discuss the famous Lina Joy case in Malaysia, where Joy, after converting to Christianity, fought in the courts to have her religious identity changed on her identity card. She was required to produce not only a baptismal certificate but also a certificate of apostasy from the Federal Territory Syariah Court. This court, however, does not have the statutory power to adjudicate on the issue of apostasy. Thus, although Malaysia grants freedom of religion, the complex and unclear administrative processes effectively deny this right.

Goh provides case studies of how two Pentecostal Christian megachurches have come into conflict with the Singapore state, because their religious beliefs lead them to attempt to “Christianize” secular culture. In the case of the Faith Community Baptist group, the challenge came when the government’s manpower ministry found that the group had failed to compensate an employee when dismissing her “without sufficient cause” during her pregnancy, which was the result of an out-of-wedlock liaison. The leader, Khong, eventually agreed to pay the sum owing but refused to concede the dismissal was “without sufficient cause,” a different legal analysis than the state, which would have viewed a sufficient cause as related to work performance or misconduct that would bring disrepute to the organization. The other case involved misappropriation of funds from the City Harvest church for the pop music career of Ho, one of the pastors. The statements of church officials indicated that they did not see this as inappropriate because the pop music was for evangelism purposes—the case is still under appeal.

M. Mohsin Alam Bhat, in the next chapter, discusses social stratification and the Indian constitution, in particular the categories of caste and religion. Bhat discusses two cases where first, Dalit Muslims and, second, the Muslim minority as a whole were denied affirmative action. The judges in these cases viewed the groups as “religious” and therefore as inappropriate categories for the Indian secular state’s scheduled castes category, thus “obscur[ing] inequality and subordination” (297).

In the final chapter, Hamoudi discusses Shi’i Islamic jurisprudence and the modern state of Iran. Rather than a demanding full application of Islamic law, Hamoudi argues, Islamic jurists have sought to establish demarcated area of the law where Islamic law prevails.

The strength of *Regulating Religion in Asia* lies in its detailed case studies, which show the diversity of different states’ relationships with the religions in their jurisdictions. By taking a broad definition of regulation, the book goes beyond the broad constitutional idea of freedom of religion into the complex practicalities of regulating religion. In doing so, the different chapters also highlight the wide variety of political ideologies and the methods of regulating religion, which are practiced by the different states.

*Helen Pausacker*

*Deputy Director, Centre for Indonesian Law, Islam and Society, Melbourne Law School, the University of Melbourne*