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At Cross Purposes

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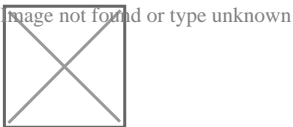
This article from the [August 2019 IPA Review](#) is by IPA Research Fellow, [Morgan Begg](#)

Despite the prevalence of religious liberty in Western political culture, its origins are a matter of continuing confusion. An ambitious and original thesis adds an important new perspective to our historical understanding of this fundamental freedom, but no specific insight is offered into how religious freedoms can be secured in a culture and society increasingly comfortable with silencing viewpoints that fall outside the secular progressive orthodoxy.

The traditional understanding is that religious liberty in Europe arose following the period of religious wars, an era which precipitated the philosophical development of the idea of religious toleration from the likes of Locke, Spinoza, and Voltaire. In particular, their ideas became embedded in the political culture of the American colonies and after its independence was explicitly written into the first amendment of the Constitution.

Religious liberty is a uniquely Western value

Indeed, religious liberty is a uniquely Western value. It is accepted as such a fundamentally worthwhile idea that, of the countries which boast written constitutions, most contain provisions protecting freedom of practicing religion. Even the repressive Soviet Union gave lip service to freedom of religion in its Fundamental Law. Sometimes the provisions are ineffective for other reasons, such as under section 116 of the Australian Constitution. At the time of Federation, the drafters of the Constitution included very few protections for political liberties, but did resolve to restrict federal parliament passing laws which impose religious observance or prohibit the free exercise of religion. The High Court has interpreted this narrowly.



The conventional understanding has come under scrutiny by an ambitious and original thesis developed by two economics professors at George Mason University. Noel D. Johnson and Mark Koyama, who are also senior fellows at the Mercatus Center, catalogue the fall of a primitive form of religious toleration in pre- modern Europe, to the circumstances that led to the rise of religious



liberty again after centuries of persecution and religious wars.

The premodern period in particular is commonly overlooked, even in serious academic works. A major contribution to the debate was published in 2003 and written by the American historian Perez Zagorin, who before his death in 2009 specialised in 16th and 17th century British history. Zagorin's *How the Idea of Religious Toleration Came to the West* is an important work that explores the emergence of a particular view of freedom of conscience argued by theologians and Christian philosophers—particularly after the religious wars of the 17th century—and informed the Founding Fathers of the United States. In Zagorin's analysis, however, the persecution of heretics under the Roman Empire leads directly to the persecution of different sects of Christianity, particularly following the fragmentation of Catholicism during the Reformation.

However, the intervening Middle Ages period was characterised by a form of conditional toleration for religion. Initially, heavily decentralised states lacked the ability to raise forces to coerce religious conformity. Instead, religious differences were frequently tolerated albeit in a limited sense, although different religious communities would be governed under separate rules. It is nonetheless an important rebuttal to the popular perception that history is an endless story of persecution and oppression by the intolerant and superstitious, cured only by modernism.

In reality, it was only as states became larger at approximately 1500AD that the circumstances led to official persecution of religious communities. The relevant event, of course, was the Reformation, which offered a threat to monarchs who derived their own political authority on religion and their relationship with the one true church—at the time, the Roman Catholic Church. In return for Rome's approval, the Kings of Europe were expected to quell dissenters of the Church when they could. The building tension ultimately led to the religious wars of Europe.

Modern institutions have been increasingly comfortable with using the power of the state to displace religious community organisations

This background leads to Johnson and Koyama's main thesis: namely that European society experienced several significant shocks to the status quo which made basing their political legitimacy off their relationship to the church no longer feasible for Europe's rulers. The development of the 'modern state'—characterised by fiscal capacity and administrative capacity, or the capacity of a state to raise taxes and enforce rules—freed those states to tolerate religious freedom.

Johnson and Koyama give credit to fundamental institutional changes between 1500 and 1800 in Europe. The rising costs of militaries was incentive for states to invest in building administrative capacities and to raise taxes more regularly. For the vast new bureaucracies that developed, governing by the development and application of general rules was administratively simpler than dealing with compartmentalised religious communities. These forces created the modern state, and reduced the importance of the church in conferring political legitimacy. As the grand bargain



between the state and the church dissolved, so too did the states' willingness to enforce religious conformity.

Analysis by Johnson and Koyama of the major shocks to Europe and the institutional changes which led to the development of the modern state are undoubtedly valuable. However, a reader could be forgiven for thinking the conclusions about religious freedom to be incomplete.

If the relationship between the state and the church was dissolved in this way, why did that necessarily lead to religious liberty? In the analysis, there doesn't appear to be any incentive to allow for this. Indeed, the need to apply general rules for administrative efficiency may lead to a different assumption. General rules are inefficient when you are dealing with different communities of people with different interests.

Under these circumstances, an institutional view would be to pursue a more substantive form of generality by eliminating fundamental differences between people, leading to rules which had general application as well as generalised outcomes. This can hardly be viewed as an extreme conclusion, since this appears to resemble what has been happening in recent years. Modern institutions have been increasingly comfortable with using the power of the state to displace religious community organisations, propagandising against the quality of non-government Christian schools, removing traditional faith communities from the public square, and through public order laws that prohibit street preaching or silent prayer vigils outside abortion clinics. The calls for exemptions for faith-based organisations—limited forms of protection for religious practice as they are—are under constant assault in Australia at a state and federal level. 'High state capacity' is a very real threat to religious freedom today.

The supporting historical evidence is at times questionable, too. Consider the claim that Jewish populations fared better relatively speaking in Nazi puppet states such as Denmark than in states that were completely under the heel of Nazi Germany, on the basis that in countries like Estonia all local institutions were obliterated. It raises the obvious question: was the relevant factor in those cases the nature of the remaining institutions, or rather the extent of direct control imposed by the Nazis? Regardless of how valid the specific example is, order itself is a necessary precondition to liberty. It does not appear to add much value to conclude that the absence of order-forming institutions leads to illiberal results.

A factor that also should be considered is whether it is possible to retain religious liberty when Christianity is no longer actively followed by a majority of Australians. The ideas themselves were the product of Christian thinkers, and the Christian foundations of society are now being eroded. Whether by secular hostility, or the self-defeating actions of the churches themselves, Christianity represents 52 per cent of the Australian population, according to the 2016 Australian Census, down from nearly 90 per cent of Australians in 1966.



Melbourne street preacher Desmond Hynes. Photo: City of Melbourne Art and Heritage Collection

The proportion of Australians answering “no religion” increased from less than one per cent to 30 per cent over the same period. An Ipsos Mori survey from 2017 found half of people surveyed agreed religion does more harm than good in the world, but this number rose to 63 per cent when refined to respondents in Australia. If these are the attitudes in the Australian community, our institutions will be an unreliable shield for individual liberties.

Norms are the variable which determine whether institutions are totalitarian or non-interventionist

Institutions are important, but those institutions operate according to values and norms. These norms are the variable which determine whether institutions are totalitarian or non-interventionist.

Johnson and Koyama’s work is a remarkable piece of work that belongs on the bookshelf of anyone interested in religious freedom. It would be of even more interest to anyone interested in the history of state building. For the future though, the most useful conclusion to take from their work is that institutions built the modern, liberal conception of religious freedom—and by implication institutions can break them, too.

Whether religious liberty will be retained depends on whether those institutions remain true to the original ideas of toleration.

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Bevis Marks Synagogue was built in 1701 after Jews were readmitted to England in 1656. It is the oldest synagogue in the United Kingdom still in continuous use. Photo: Philip Walker