

dealt with elsewhere. That potential for further engagement with the subject is greatly helped by useful reading lists provided after each section.

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Transforming Religious Liberties: A New Theory of Religious Rights for National and International Legal Systems

S I STRONG

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This is a very interesting book because it proposes a new approach to religious liberties in an attempt to avoid some of the controversies and conflicts that arise in this area. The proposed approach is set out in ‘eight categories of the religiously oriented original position’s constitutional framework’ which are eight propositions on pages 119–120 of the book. These are then tested against reported examples from cases raising issues of religious liberties. Although it is unlikely that the eight propositions will defuse the conflicts which arise in cases involving religious liberties, the work itself makes a worthwhile contribution to the debate about how religious rights can be accommodated in a modern democratic state.

The book starts with an introduction to the methodology in Chapter 1. This shows the work’s genesis as a doctoral dissertation completed at the University of Cambridge in 2002 which won the Yorke Prize in 2003 (p xiii). I found Chapter 2 the most interesting because it identified weaknesses of the approach to religious liberties in the jurisprudence from the United States, the United Kingdom and the Republic of Ireland, as well as theoretical justifications for current approaches. This culminated in what (for me) was one of the strongest paragraphs in the book (p 93) where the author identifies that ‘by characterising the issue in oppositional, zero-sum terms, existing analytical models perpetuate religio-legal conflict and preclude the possibility of cooperative problem-solving’.

This leads to Chapter 3, in which an immensely theoretical approach is taken to developing the eight categories of the religiously oriented original position’s constitutional framework. The religiously oriented original position is based on approaches suggested by John Rawls’ *A Theory of Justice* (1971) and then developed by the author to meet the objections to Rawls’s writings of those with religious beliefs. The author then considers what a religion is (pp 122–133) before

turning to the different question of what a religious practice is (pp 135–138). Although the basis on which the propositions were developed is clearly set out and developed, there was nothing in this chapter which seemed to me to be likely to lead to a widespread acceptance of these propositions by society in general or legislatures in particular in any of the jurisdictions studied.

The remainder of the book considers an analysis of these propositions, examined as pairs with ‘purely self-regarding practices’ in Chapter 4, ‘complex self-regarding practices’ in Chapter 5, ‘false other-regarding practices’ in Chapter 6 and ‘true other-regarding practices’ in Chapter 7. There were interesting passages as the author reviewed the propositions and considered issues raised in previous cases, but this review showed that many of the outcomes would be controversial. For example, when considering purely self-regarding practices, the author asserts that:

regulation of acts potentially leading to one’s own injury or death is inappropriate because such determinations require the state to decide which religious actions are capable of being true (and therefore permissible) and which are not (and therefore impermissible) ... if religious autonomy can justify a religious person’s making his or her own decisions in medical cases, it should carry the same weight in non-medical cases. (p 161)

Such reasoning would permit practices around death which would engage, among other, very strong religious objections. The fact that the eight propositions would lead to greater religious autonomy in some areas is unlikely to be treated by those holding contrary religious beliefs to be a sufficient basis for permitting these practices. In these circumstances the eight propositions would fail to reduce conflict on the basis of religious beliefs in society as a matter of practice and would not be seen by many persons motivated by religious beliefs as increasing religious freedoms, whatever the theoretical outcome should be.

In the course of testing the propositions against various reported cases, the author analyses many religious rights cases. Part of the strength of the book lies in this interesting analysis. Some of it might reasonably be contested, but it is always interesting, and I particularly enjoyed the author’s analysis of the blasphemy cases (pp 296–300).

In all this is a book which makes an interesting contribution to debate about religious liberties and which should be read for that reason alone. It is unlikely to end the debate.

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