

RELIGIOUS FREEDOM IN THE LIBERAL STATE

Religious Freedom in the Liberal State

REX AHDAR

and

IAN LEIGH

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Introduction

Freedom of religion is a fundamental right and represents a major triumph of our democratic society. The philosophical and political values underpinning Canadian democracy recognize the need to respect the diverse opinions and beliefs that guide the consciences and give direction to the lives of all members of our society.¹

Respect for another person's beliefs is 'one of the hallmarks of a civilised society'.² Commensurately, religious liberty is, as the Supreme Court of Canada puts it above, a 'fundamental' right, indeed, a 'triumph' of contemporary liberal democracies. It is 'one of the foundations of a "democratic society"', according to the European Court of Human Rights.³ In American political and constitutional life it has been described as the 'first freedom'.⁴ Some characterize religious freedom as 'the ultimate freedom': it is 'not merely one of many rights, but the prototypical human right'⁵ and 'the cornerstone of all human rights'.⁶

In every age, religious tolerance and religious freedom are important. At the commencement of the twenty-first century this is no less so. Two reasons stand out.

First, in the last decade or so, sociologists of religion and other social theorists have had to revise their attachment to one of the bulwarks of their discipline: secularization theory. Religion, at the end of the twentieth century, made a 'come-back'. Modernization, and its cousin, secularization, were meant to lead inexorably to a decline in religion, both at a societal and individual level. Yet, as Peter Berger points out, 'the assumption that we live in a secularized world is false: The world today, with some exceptions . . . is as furiously religious as it ever was, and in some places more so than ever'.⁷

In global terms the 'two most dynamic religious movements', notes Berger, are Pentecostalism and Islam.⁸ Ironically, it is faiths of a more 'traditional', 'conservative'

¹ *Congrégation des témoins de Jéhovah de St Jérôme-Lafontaine v. Lafontaine (Village)*, 2004 SCC 48; (2004) 241 DLR (4th) 83, [64], per LeBel J dissenting (Bastarache and Deschamps JJ concurring).

² Lord Nicholls of Birkenhead in *R v. Secretary of State for Education and Employment, ex p Williamson* [2005] UKHL 15, [15].

³ *Refah Partisi (The Welfare Party) v. Turkey* (2003) 37 EHRR 1, [90].

⁴ See e.g. M. McConnell, 'Why is Religious Liberty the "First Freedom"?' (2000) 21 *Cardozo L Rev* 1243.

⁵ K. Hasson 'Religious Liberty and Human Dignity: A Tale of Two Declarations' (2003) 27 *Harv J L & Pub Pol* 81, 88, 89. See also D. Little, 'Does the Human Right to Freedom of Conscience, Religion and Belief have a Special Status?' [2001] *BYUL Rev* 603.

⁶ J. Wood Jr., 'Religious Human Rights and a Democratic State' (2004) 46 *Journal of Church and State* 739, 764. ⁷ 'Secularism in Retreat', *The National Interest*, Winter 1996/1997, 3, 3.

⁸ 'Religions and Globalisation' (2003) 36 *European Judaism* 4, 7. On the growth of the former, see P. Jenkins, *The Next Christendom: The Coming of Global Christianity* (Oxford, 2002).

and ‘reactionary’ nature—those that have *not* tried to adapt themselves to the requirements of a scientific, secularized worldview—that have survived and, moreover, flourished.⁹ Concomitant with this resurgence in religious adherence is a reassertion of religion in public life, the ‘deprivatization’ of religion as some sociologists dubbed it.¹⁰ As Christopher Eberle notes, the ‘widely held’ notion ‘that modern citizens will engage in their religious practices “*pianissimo*,” in ever more privatized a fashion’ is now vulnerable: ‘religion—and specifically, *public* religion—seems here to stay’.¹¹

With the rise of religion, and conservative, ‘proselytizing’ religion at that, the need for understanding, tolerance and carefully designed legal protection is pressing.

A second reason for a heightened emphasis upon religious liberty is the ongoing implications of the September 11, 2001, terrorist attacks. History has always had its misguided religious zealots who kill in the name of God, but this recent demonstration of religiously motivated mayhem focused liberal democrats’ minds in a fashion that bloodshed in Bosnia, the Sudan, Indonesia and other cauldrons did not. The temptation is to overreact and some liberal states have responded with potentially draconian legislation that may yet significantly impinge upon the religious liberties of individuals and communities deemed to pose a threat to ‘national security’.¹²

Moreover, in the aftermath of 9/11 the already-present tendency of the media to lump all serious religious followers indiscriminately together under the catch-all term ‘fundamentalist’ has exacerbated. This is more than a woefully ignorant misuse of religious terminology:¹³ it has the consequence of suggesting that anyone religiously devout is dangerous—and perhaps only a few shades to the left of the religiously motivated terrorist and suicide bomber. The inevitable tendency is to reinforce the societal pressure on religious people to conform to liberal, secularized, expectations and practices.

Is there really anything to be concerned about though? We believe so. Concrete examples of restrictions upon religious freedom are not difficult to recite. In the United Kingdom, for instance, the student-run Christian Union was threatened with deregistration by Hull University’s Students’ Union for its insistence that members of the former’s executive committee sign its articles of faith.¹⁴ A widespread coalition of critics, including the British Humanist Association and the

⁹ See Berger, ‘Secularism in Retreat’, 5: ‘religious movements with beliefs and practices dripping with “reactionary supernaturalism” (the kind utterly beyond the pale of self-respecting faculty parties) have widely succeeded.’

¹⁰ See especially J. Casanova, *Public Religions in the Modern World* (Chicago, 1994), 3–6, 65–6.

¹¹ *Religious Conviction in Liberal Politics* (Cambridge, 2002), 6 (original emphasis).

¹² See the excellent discussion by Silvio Ferrari, ‘Individual Religious Freedom and National Security in Europe after September 11’ [2004] *BYUL Rev* 357.

¹³ On the history and varieties of fundamentalism, correctly termed, see H. Harris, ‘Fundamentalisms’ in C. Partridge (ed.), *Dictionary of Contemporary Religion in the Western World* (Leicester, 2002), 19–23.

¹⁴ ‘Campus Christians Accused of Breaking Students’ Union Rules’, *Yorkshire Post*, 1 April 2004.

renowned comedian, Rowan Atkinson, inveighed against the 2004 bill to outlaw incitement of religious hatred.¹⁵ The potential chilling effect of such legislation was illustrated in Australia that very month. An evangelical Christian group were successfully prosecuted for vilifying Muslims based on provocative utterances made at a seminar and in accompanying articles published in church newsletters.¹⁶

In New Zealand, a group of Pentecostal and Evangelical churches recently complained of religious discrimination. The roading authority refused to authorize a planned march (to protest against the passing of civil union legislation and a general ‘moral slide’ in the nation) over Auckland Harbour Bridge, despite a large political march and the annual Auckland Marathon race having received permission.¹⁷

In Canada, a Christian who ran his own small printing company declined to accept an order from a gay and lesbian organization to print its material. The Ontario Human Rights Commission said he had no right to refuse the order. The Ontario Superior Court of Justice narrowly vindicated Scott Brockie’s right to do so, albeit only in respect of literature that posed a ‘direct conflict’ with the ‘core’ elements of his religious beliefs.¹⁸ Earlier, a majority of the Supreme Court of Canada held that a school board was acting unlawfully when it rejected, on religious grounds, books endorsing same-sex parenting for use in kindergartens.¹⁹

Selecting examples from the litigious United States is hardly difficult. Last year, 2004, witnessed, for example, the non-resolution of the controversy over the recitation of the Pledge of Allegiance (and its troublesome ‘under God’ phrase) in public schools.²⁰ In another decision, the majority of the Supreme Court was unable to find any religious discrimination in the decision of the State of Washington to deny scholarship funding to an erstwhile student in theology.²¹ Joshua Davey’s mistake was to choose pastoral ministry studies instead of chemistry or history.

The reader may have noticed these illustrations all involve Christians, but the challenge to maintaining freedom of religion is not confined, of course, to

¹⁵ See ‘Law to Safeguard Religion is No Joke, warns Blackadder’, *Guardian*, 7 December 2004; ‘Atkinson’s Religious Hate Worry’, *BBC News*, 7 December 2004. This proposal was withdrawn from the Serious Organised Crime and Police Bill 2004–5 in order to speed its passage before the May 2005 General Election. See further Chapter 12, p. 379.

¹⁶ See D. Hoore, ‘Pastor Found Guilty of Vilifying Muslims’, *The Australian*, 20 December 2004. The decision is *Islamic Council of Victoria v. Catch The Fire Ministries Inc*, Victoria Civil and Administrative Tribunal, VCAT Ref No A392/2002, 17 December 2004. See further Chapter 12, p. 385.

¹⁷ ‘Bridge Ban Angers Destiny Church’, *New Zealand Herald*, 4 February 2005. Transit New Zealand, the roading authority, cited safety reasons for its refusal. The churches have threatened to defy the ban.

¹⁸ *Ontario Human Rights Commission v. Brockie* (2003) 222 DLR (4th) 174. See Chapter 6, p. 176.

¹⁹ *Chamberlain v. Board of Trustees of School District No. 36 (Surrey)*, 2002 SCC 86; [2002] 4 SCR 710. See Chapter 6, p. 174.

²⁰ *Elk Grove Unified School District v. Newdow*, 125 S Ct 2301 (2004). See Chapter 5, p. 141.

²¹ *Locke v. Davey*, 540 US 712 (2004).

Christianity. So, for instance, there is the ongoing saga over the right of Muslim schoolgirls to wear the *hijab* (headscarf) in France,²² as well as more (globally) obscure battles, such as the two Muslim women in New Zealand who insisted they be permitted to wear the *burqa* (full face and body covering) when testifying in court.²³

Some may respond that these instances are innocuous anecdotal examples and, cumulatively, are of little concern, amounting (to borrow Lord Walker of Gestingthorpe's colloquialism) to 'fairly small beer'.²⁴ Admittedly, comprehensive empirical surveys endeavouring to quantify the true extent of religious freedom violations are rare.²⁵ Nonetheless, thoughtful jurists detect a disturbing trend. Justice Antonin Scalia suggested recently that: 'one need not delve too far into modern popular culture to perceive a trendy disdain for deep religious conviction.'²⁶ Mary Ann Glendon similarly comments:

The current [US Supreme] Court majority has pressed forward with a six-decade long trend of cabining religion in the private sphere while eroding protections of the associations and institutions where religious beliefs and practices are generated, regenerated, nurtured, and transmitted from one generation to the next . . . If the present trend continues, it is not fanciful to suppose that the situation of religious believers in secular America will come to resemble *dhimmitude*—the status of non-Muslims in a number of Islamic countries. The *dhimma* is tolerated so long as his religion is kept private and his public acts do not offend the state religion.²⁷

Religion is, so to speak, 'in the dock';²⁸ the onus is on religionists to demonstrate their faith is benign. As Silvio Ferrari puts it: 'Religions have lost their innocence:

²² Loi 2004-228, passed overwhelmingly by the French Parliament, bans the wearing of signs or dress by which pupils 'overtly manifest' a religious affiliation. See T. J. Gunn, 'Under God but not the Scarf: the Founding Myths of Religious Freedom in the United States and *Laïcité* in France' (2004) 46 *Journal of Church and State* 7.

²³ *Police v. Razamjoo*, Auckland District Court, CRN 30044039397-8, 14 January 2005, Judge L H Moore; 'Court Says Women Must Lift Veil when Giving Evidence', *New Zealand Herald*, 17 January 2005. The Court, by way of compromise, ruled that the two Muslim women, Crown witnesses in an insurance fraud case against a brother of one of the women, would have to take their burqas off before the judge, lawyers and female court staff so their faces could be plainly seen. However, they would be allowed to wear a hat or scarf to cover their hair and be allowed to sit behind a screen and thus be blocked from the general public.

²⁴ *Rv. Secretary of State for Education and Employment, ex p Williamson* [2005] UKHL 15, [56].

²⁵ Two notable exceptions are: G. Sisk, M. Heise and A. Morriss, 'Searching for the Soul of Judicial Decisionmaking: An Empirical Study of Religious Freedom Decisions' (2004) 65 *Ohio St LJ* 491 (based on a survey of all published US federal religious freedom cases from 1986 to 1995, the single most prominent and salient influence on judicial decision making was religion—in terms of affiliation of the claimant, background of the judge and demographics of the community): J. Wybraniec and R. Finke, 'Religious Regulation and the Courts: The Judiciary's Changing Role in Protecting Minority Religions from Majoritarian Rule' (2001) 40 *Journal for the Scientific Study of Religion* 427 (based on a survey of 2,109 US court cases from 1981 to 1996, religious sects and new religious movements ('cults') were more likely to be involved in litigation and to receive 'unfavourable' rulings).

²⁶ Dissenting in *Locke v. Davey*, 540 US 712, 733 (2004) (Thomas J concurring).

²⁷ 'The Naked Public Square Now: A Symposium', *First Things*, November 2004, 11, 13.

²⁸ cf. C. S. Lewis, *God in the Dock*, W. Hooper (ed.) (London, 1971), ch. 12.

they no longer live in a Garden of Eden. They need to prove they can benefit civil society or at least prove they are harmless.²⁹

Exactly why religious freedom is under increasing pressure in the West today is a question that admits of no single, simple answer. We offer the following (partial) explanations.

First, there is a greater number and diversity of religions (and ‘spiritualities’) in modern liberal democracies than in centuries past.³⁰ Religious pluralism, accelerated by immigration, easy international travel, the Internet, and so on, is a sociological fact of life. With a greater number of rivals jostling in the ‘market-place’ of faith, friction is inevitable. Homogeneous, cohesive societies with an implicit and stable consensus on moral, social and religious values are rarer in the West than they used to be. Fundamental social institutions—marriage, education, health services—are foci for conflicting worldviews. Secularists collide with religionists, liberal believers battle conservatives (or ‘fundamentalists’), Christians engage Muslims (or Hindus or Sikhs). The permutations are legion.

Second, there is the rapid growth of Islam in the West.³¹ So, for instance, some assert there are as many people attending mosques in England per week as attend Church of England services.³² France’s ban on the wearing of the *hijab* by school-girls is a reaction to the perceived threat posed by Islam in that nation. Islam rejects a dualistic worldview that would compartmentalize areas of life into the religious/sacred versus the secular/profane. All of life is lived in submission to Allah, everyday mundane activities included. (This integrated or holistic view is, we might add, an insight being recaptured by some Christians today.³³) Islam, like Christianity, is a missionary religion: evangelism, witness, proclamation (and conversion) are not optional. Islam will not so readily acquiesce to the privatization of belief and practice that Christians have undergone.

If religion has expanded, then there has been a parallel growth in the state also. Thus, third, we may note the expansion of the state and its penetration into most areas of human interaction. Judge Michael McConnell observes:

It should be remembered that when the First Amendment was proposed and ratified, the government had little or no involvement in education, social welfare, or the formation and transmission of culture. These functions were predominantly left to the private sphere, and within the private sphere religious institutions played a leading role. As the government has

²⁹ ‘Individual Religious Freedom and National Security’, 376.

³⁰ Although some have questioned the true extent of religious diversity: see L. G. Beaman, ‘The Myth of Pluralism, Diversity and Vigor: The Constitutional Privilege of Protestantism in the United States and Canada’ (2003) 42 *Journal for the Scientific Study of Religion* 311, and the rejoinders by A. Gill, ‘Lost in the Supermarket: Comments on Beaman, Religious Pluralism and What it Means to be Free’ (2003) 42 *JSSR* 327 and P. Beyer, ‘Constitutional Privilege and Constituting Pluralism: Religious Freedom in National, Global and Legal Context’ (2003) 42 *JSSR* 333.

³¹ See S. Ferrari and A. Bradney (eds.), *Islam and European Legal Systems* (London, 2000).

³² Berger, ‘Religions and Globalisation’, 8–9.

³³ For instance, a multitude of churches have recently run programmes devised by Rick Warren and centred upon his book, *The Purpose Driven Life: What on Earth am I Here For?* (Grand Rapids, Mich., 2002).

assumed wider and wider responsibility for the funding and regulation of these functions, the idea of the 'secular state' has become more and more ominous. When the state is the dominant influence in the culture, the 'secular state' becomes the equivalent of a secular culture . . . This makes achievement of religious freedom far more difficult. As long as the domain of collective decisionmaking is small, and of little philosophical import, religious freedom is protected as it were naturally—as a byproduct of a limited state, as Locke supposed. As the domain of government increases in scope, some government involvement in religious activity becomes necessary if religious exercise is to be possible at all.³⁴

If I wish to discipline my children, refrain from taking advantage of life-preserving medicine, construct a place of worship, hire only workers who share my faith, the state will have something to say about it.

Fourth, it is strongly arguable that the nature of liberalism itself has changed. Early liberal political philosophy was not opposed to religion. Quite the opposite: many discern that classic liberalism emerged 'from a set of ideas rooted in Christian theology and congenial to religious institutions'.³⁵ Liberalism and religion could be understood as 'unconventional partners'.³⁶ Thus, 'liberal democracy, with its protection for religious freedom, was good for religion; and religion, in turn, provided the moral and cultural underpinnings for a liberal society'.³⁷ At some point a transformation occurred. Liberalism took, to borrow Wolfhart Pannenberg's phrase, 'a secularist turn'.³⁸ The expansion of the state coincided with a change of mindset. The comparatively disengaged, limited, live-and-let-live liberalism of earlier centuries transmogrified into a much more ambitious and comprehensive liberalism.³⁹ In modern political theorists' parlance, a 'thin' procedural liberalism was succeeded by a 'thick' substantive liberalism.⁴⁰ A theory (and constitutional framework) abstaining from resolving issues about its citizens' pursuit of the good life has been superseded by a theory with quite definite views of the good life, and the coercive apparatus to enforce it when necessary. McConnell merits quotation once more:

Today there is a widespread sense not only that *the government* should be neutral, tolerant, and egalitarian, but *so should all of us*, and so should our private associations. Open-mindedness, not conviction, is the mark of the good liberal citizen. Indeed, there is

³⁴ 'The "First Freedom"', 1261. See also P. Garry, 'Religious Freedom Deserves More than Neutrality: The Constitutional Argument for Nonpreferential Favoritism of Religion' (2005) 57 *Fla L Rev* 1, 41.

³⁵ McConnell, 'The "First Freedom"', 1257; C. Orwin, 'The Unraveling of Christianity in America', *Public Interest*, Spring 2004, 20, 31.

³⁶ R. B. Fowler, 'Religion and Liberal Culture: Unconventional Partnership or Unhealthy Co-dependency' in L. Lugo (ed.), *Religion, Public Life and the American Polity* (Knoxville, Tenn., 1994), ch. 8, 201. See also W. McClay, 'The Judeo-Christian Tradition and the Liberal Tradition in the American Republic' in T. Boxx and G. Quinlivan (eds.), *Public Morality, Civic Virtue and the Problem of Modern Liberalism* (Grand Rapids, Mich., 2000), ch. 8, 128.

³⁷ McConnell, 'The "First Freedom"', 1257. See also the fuller treatment by Fowler, 'Religion and Liberal Culture'.

³⁸ 'How to Think about Secularism', *First Things*, June/July 1996, 27, 28.

³⁹ McConnell, 'The "First Freedom"', 1258 ff.

⁴⁰ We explore this more fully in Chapter 2, p. 42.

something suspect in those who are sure that they are right, since it might imply that someone else is wrong. From a religious point of view, however, open-mindedness is principally valuable in the search for Truth, and not as a permanent nesting place . . . For this and other reasons, the ideal of the liberal citizen thus conflicts with the ideal of belief in religion or in any other comprehensive faith or ideology. *To the extent that the state pursues this new vision of the liberal citizen and enforces its vision by force, religious freedom is gravely endangered.* Indeed, liberalism in the old sense is itself endangered, for it becomes not a set of political arrangements by which persons of widely differing views can live together in relative harmony, but a narrow and sectarian program enforcing its dogmas by force.⁴¹

Liberalism, in its secularist, comprehensive form, rightfully deserves criticism. This kind of liberal state is *not* neutral.⁴² The mirage of perfect neutrality is, indeed, a leitmotif throughout this book.

Modern liberalism, in its secularist mutation, prefers religion to be domesticated, tamed: “open-minded” . . . stripped down and soft-edged⁴³ as Stanley Fish jibes, ‘a tepid, civic version of the faith’, as Justice Scalia termed it recently.⁴⁴ Religious passions ought to be quelled; faith is best treated by good liberal citizens as a mere subjective, individual preference or taste among many, a mere ‘hobby’.⁴⁵ Robert Booth Fowler quips: ‘Everyone will be “nice” and go their own way. American religion may sometimes decry the liberal world it knows, but on the whole, religion is very nice and it is for nice people.’⁴⁶ More seriously he adds: ‘Religions or religious groups that do not play this game may encounter trouble, though far less in a liberal culture than in any other of which I know.’⁴⁷

The aim of this book is to explore why, when and how religious individuals and groups that ‘do not play the game’ encounter difficulty in the liberal state. Fowler is correct in remarking that religionists, by and large, experience fewer problems, involving the free exercise of their faith, in liberal polities than other systems. Yet, there is, we suggest, no reason to be complacent. As Lord Walker of Gestingthorpe reminded the House of Lords recently: ‘in matters of human rights the court should not show liberal tolerance only to tolerant liberals.’⁴⁸ There are plausible grounds for believing that a growing number and variety of difficult religious freedom challenges lie ahead.

This study takes a non-neutral stance, in the sense that we traverse the subject from a Christian perspective. More specifically, ours is an evangelical Christian

⁴¹ McConnell, ‘The “First Freedom”’, 1259 (emphasis added).

⁴² See *ibid.* 1264 and McConnell’s ‘Religious Souls and the Body Politic’, *Public Interest*, Spring 2004, 126, 138–42.

⁴³ ‘Mission Impossible: Settling the Just Bounds between Church and State’ (1997) 97 *Colum L Rev* 2255, 2281. He adds (*ibid.*) that, in this form, ‘they are indistinguishable from other enlightenment projects and are hardly religions at all’.

⁴⁴ *Locke v. Davey*, 540 US 712, 733.

⁴⁵ On the notion of religion as a ‘hobby’, see S. Carter, *The Culture of Disbelief: How American Law and Politics Trivialize Religious Devotion* (New York, 1993).

⁴⁶ ‘Religion and Liberal Culture’, 212.

⁴⁷ *ibid.*

⁴⁸ *R v. Secretary of State for Education and Employment, ex p Williamson* [2005] UKHL 15, [60].

approach.⁴⁹ We make no apology for this. Although much of our focus, and many of our examples and cases, address Christians' struggles over freedom of religion, our study is not confined to these. The principle of religious freedom in liberal democracies is valuable (and to be valued) for *all* persons of *all* faiths and creeds.

In terms of coverage, we have necessarily been forced to omit some areas. So, for instance, we have not covered (except in passing), issues of religious liberty in environments such as prisons,⁵⁰ or the military,⁵¹ nor discrete law and religion problems such as the clergy-parishioner privilege,⁵² nor the challenges raised by particular religious groups such as indigenous peoples⁵³ or the New Religious Movements.⁵⁴

We have structured our discussion into three divisions. Part I contrasts liberal and Christian perspectives on religion and religious liberty. In Part II, we examine key legal and constitutional issues concerning the protection of, and limits to, the right of religious freedom. Part III traverses certain areas of contemporary controversy over the ambit of freedom of religion. The issues raised by the theme of each chapter in Part III are explored in a broad fashion without anchoring the discussion in any particular jurisdiction. Nonetheless, we have given special attention to the legal position in the United Kingdom (more specifically, England and Wales) and amplified the examination of the topics by drawing material (selectively and, we hope, not too idiosyncratically or tendentiously) from other Western jurisdictions and from international bodies. Our discussion is based upon the legal and other materials available to us as at 1 March 2005.

⁴⁹ On the defining characteristics of evangelical Christianity (as distinguished from 'fundamentalism'), see e.g. R. Ahdar, *Worlds Colliding: Conservative Christians and the Law* (Aldershot, 2001), ch. 2; H. Harris, *Fundamentalism and Evangelicals* (Oxford, 1998). We (the authors) are Pentecostal and evangelical Anglican, respectively.

⁵⁰ See e.g. P. Edge, *Legal Responses to Religious Difference* (The Hague, 2002), 219–23.

⁵¹ See e.g. M. Ariens and R. Destro, *Religious Liberty in a Pluralistic Society*, 2nd edn. (Durham, NC, 2002), 852–60.

⁵² See e.g. J. D. Bleich, 'Clergy Privilege and Conscientious Objection to the Privilege' in R. O'Dair and A. Lewis (eds.), *Law and Religion* (Oxford, 2001), 347.

⁵³ See e.g. C. Long, *Religious Freedom and Indian Rights: The Case of Oregon v Smith* (Lawrence, Kan., 2000); R. Ahdar, 'Indigenous Spiritual Concerns and the Secular State: Some New Zealand Developments' (2003) 23 *OJLS* 611.

⁵⁴ See e.g. Edge, *Legal Responses*, ch. 12; J. T. Richardson, 'Minority Religions ("Cults") and the Law: Comparisons of the United States, Europe and Australia' (1995) 19 *U Qld LJ* 183; J. T. Richardson, 'Discretion and Discrimination in Legal Cases involving Controversial Religious Groups and Allegations of Ritual Abuse' in R. Ahdar (ed.), *Law and Religion* (Aldershot, 2000), ch. 6.