

# **Religious freedom, the rule of law and the public good**

*Jessica Giles, SFHEA, barrister, law lecturer, Director of the Project on Interdisciplinary Law and Religion Studies, The Open University<sup>1</sup>*

Summary of argument to be presented at the conference

Full article with academic references and reference list to follow

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## **1. Introduction**

This paper will consider the concept of the right to freedom of thought, conscience and religion (FTCR) as a universal right and the extent to which this is co-dependent with the rule of law. In other words, is the enjoyment of the universal right to FTCR dependent on adherence to the rule of law within a given nation state? Looked at from a rule of law perspective, the question is whether the rule of law is co-dependent on religious freedom. Ought or does the rule of law necessarily incorporate religious freedom? Having considered these issues, this paper goes on to consider whether religious freedom can be considered a universal good, essential to human flourishing such that it ought to be included in constitutional frameworks, regardless of their provenance and the form they take.

## **2. The right to freedom of thought, conscience and religion and the rule of law: definitions**

### **2.1 The right to freedom of thought, conscience and religion**

The right to FTCR has, ‘on paper’, won almost universal acceptance across the globe. This is evidenced, for example, by the number of signatories to the International Covenant on Civil and Political Rights and other international treaties incorporating the right. On the other hand, high levels of violation of the right, evidenced by national and international governmental organisations, as well as NGOs and INGOS, tell a very different story. Violations occur both within and outwith countries that adhere to the rule of law.

The right is established in its modern iteration in article 18 of the International Covenant on Civil and Political rights:

18.1 Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom [...] either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.’

18.2 No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice

18.3 Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

The core content of the right has been adjudicated by international, regional and national courts, see Giles J. (2018a):

Ahdar and Leigh 2005, Doe 2011, Sandberg 2012, D'Costa et al 2013, Durham and Scharffs 2018, Robbers n.d.<sup>2</sup>, in their examination of religious freedom provide an outline of the right to religious freedom in Western liberal democratic contexts, identifying it as including: the right to hold (or not hold) a religious belief, and the right to manifest that belief and change that belief. It includes the right of the state to limit the manifestation of belief in specific limited circumstances prescribed by law and, necessary in a democratic society and, only to the extent that any given manifestation interferes with the enjoyment by others of their fundamental rights. In practice this can often involve a balancing of interests and some argue restrictions on the right ought to involve an accommodation of religious beliefs in so far as is practicable. The right includes that of public worship and the expression of religious (and conscience based) opinions. It encompasses individual and collective rights to practice religion. States are prohibited from penalising apostasy and from obstructing free religious affiliation. No individual can be compelled to adopt a religion or belief, or to declare a religion or belief, nor can they be compelled to take part in practices which involve them acting against their conscience or religious beliefs. In many states the right incorporates the freedom to proselytize. Religion and belief are defined to incorporate a wide range of beliefs, but these must attain a certain level of cogency, seriousness, cohesion and importance to enjoy the protection of FoRB [FTCR]. The right to believe is absolute, the right to manifest belief can be limited by the state in accordance with law in circumstances where there are grounds for doing so, including to protect public safety, order, health, or morals

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<sup>2</sup> See also the European Court of Human Rights Guide on Article 9 of the European Convention on Human Rights: Freedom of thought, conscience and religion: European Court of Human Rights 2018

or the fundamental rights and freedom of others. Any restriction must be proportionate to the aim it seeks to achieve.

There appears to be some judicial consensus first, that freedom to choose for or against a belief system is essential to the right to FTGR and second, that incorporating religious freedom into a constitutional framework as a core human right while also protecting a tranche of other core human rights, will not necessarily guarantee that freedom, but it will foster the enjoyment of that freedom. What we see in practice across the globe are very different constitutional contexts and approaches to public living together affecting the constitutional incorporation and implementation of this universal right. This nuanced and differentiated approach is evident even in countries where there is consensus as to the core content of the right.

Although it is difficult to generalise in the face of multiple religions and systems of conscience practiced worldwide, it can generally be said that religious and belief systems provide adherents with an ethical framework according to which those adherents, once they have committed themselves to that faith or system of conscience, are expected to orientate their lives. Some aspects of this framework relate to the communal or common life and practice of the group and other aspects relate to aspects of individual religious practice. For many groups there will be a requirement that the adherent gives a commitment to the group and/or the precepts of the religion over and above a commitment to state mandated norms where there is an unavoidable clash. Those who are deeply committed to a given faith or belief system will adhere to the ethical framework guiding the behaviour of adherents, in some cases even if this puts their own lives at risk. The denial by the state to the individual of this ability to live according to a specified ethical framework that might deviate from the states' own mandated norms, is likely to cause cognitive dissonance for the believer/adherent and potentially give rise to disengagement with public life and forms of isolation or ghettoization for faith or belief groups. It can also lead to groups expressing, at times, violent opposition to government. The potential for this to occur necessitates a sophisticated approach to constitutional structures and governance in order that the state is able to maintain peace within civil society while facilitating an environment where faith and belief can be practiced.

This commitment by faith and other groups to a distinct set of norms which might or might not accord with government-imposed norms poses something of a conundrum for governments seeking to maintain peace and stability within and beyond their borders. A faith group will, if

you like, have its own 'rule of law' established internally to guide and govern the establishment of norms and core principles which address relations between the individual and a deity, between members of that faith group inter se and between group members and other members of the civil society. For groups adhering to systems of conscience, the group will have a mechanism for addressing new challenges as science and technology, as well as global challenges such as the COVID19 pandemic and climate change, challenge governments and members of civil society to transform behaviour. There may or may not be rules which facilitate a positive contributing relationship between the faith group, other civil society groups and the government. The telos of a faith is generally the members obedience to, worship of or relationship with a deity, for some it is also about life beyond this earthly life, but, it can also be directed beyond this to encompass engagement with or even dominance of the political life of the nation state.

The conundrum facing a nation state concerned to encompass FTCT is that it will be concerned to establish its own rules, based on an ethical framework suited to all those within its borders, with which it expects and can require those within its borders to comply. How should the rules established by government and the rules established by faith and belief groups co-exist so that religious freedom is maximised giving rise to the potential for human flourishing in the freedom to make choices for or against a religion? The state must bear in mind not only the need to fulfil its task of facilitating peaceful plural living together but also of otherwise enabling individuals, groups and the nation state to interact and flourish. Some, for example, might be perfectly content to live within state mandated norms and may be content to look to the state for moral guidance when it comes to the boundaries of what is and what is not acceptable behaviour in public and private life, they might not want to adhere to any particular group or submit to alternative ethical frameworks.

A constitutional framework encompassing FTCT needs to maintain a delicate balance between maximising freedom for individuals to belong to a religious or conscience-based group and orientate their lives according to its precepts on the one hand, and the need to create cohesive public living together, to protect individuals from harm and to enable individuals to flourish on the other. The risks include, for example, that any one given group may seek to dominate and enforce its ethical framework on other members of society. Groups may also have rules which in the eyes of government or other members of society mitigate against human flourishing necessitating a restriction on the exercise of religious freedom. Or, there may be clashes

between religious groups on multiple issues. I have made suggestions elsewhere as to how it might be possible to consider how to balance various competing interests in society in order to maximise freedom while maintaining peaceful plural living together: Giles (2018a, 2018b and 2020).

In brief, our first conundrum, namely that a state will want to craft its own ethical framework upon which laws are created and adjudicated, whilst religious and conscience-based groups will want to craft their own frameworks, can be addressed with a nuanced approach to FTCT and supporting mechanisms to engender plural living together within civil society. I argue for an approach which enables a state, in the light of its religious and political historical context, to foster FTCT and to encourage public dialogue between civil society groups to inform law creation and adjudication based on an exploration of each group's approach towards its Tradition. By Tradition I mean the rules that govern the group's practice and which enable it to contextualise within given societies<sup>3</sup> (distinct from its doctrine, which usually consists of immovable rules that govern the groups beliefs).

What I want to consider here is not how it might be possible for a state to protect religious freedom, but why, despite the challenges, a state ought to seek to do this. To this end, after considering the extent of the co-dependence of the rule of law and FTCT, this paper will consider the public and individual good that arises from FTCT such that a state ought to seek to protect the right.

This leads to the second conundrum, namely what comes first, or perhaps what might take priority, granting individuals freedom of choice (for or against a religion or systems of conscience) or imposing the rule of law which might or might not protect FTCT as a priority for its populace. Is it facilitating FTCT such that individuals find their own space to flourish so that, by recognising their own need for choice for or against religion, individuals and faith groups support government in its task of facilitating this freedom for others? Or would this ultimately necessitate the incorporation or strengthening of the rule of law into the constitutional structure? In particular does FTCT necessitate the protection of other fundamental rights, as well as the application in a nation state of other formal elements of the rule of law. The question here is, if the focus is on facilitating FTCT how long could this be

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<sup>3</sup> Giles 2018b

maintained absent other elements of the rule of law being present within the governance structures of a nation state? Alternatively, must government first establish the rule of law within society, including a legal framework encompassing a spectrum of enforceable rights, before it can provide an environment where individuals can make a choice for or against a particular religion? One is a bottom-up approach (allow members of civil society to enjoy religious freedom) the other a top-down approach (instigate the rule of law, including a spectrum of fundamental rights). Practically much will depend on country and historical context, and empirically we will see in the analysis in section 3 below that neither FTCCR nor the rule of law is a guarantee of the enjoyment of the other.

## **2.2 The Rule of law**

The rule of law has developed as a constitutional concept in Western Liberal democratic theory and subsequently was adopted internationally as something of a gold standard against which to measure constitutional form and practice. While there is recognition of the concept both in judicial reasoning and decision making as well as in constitutional law, its definition remains hotly contested.

The minimal concept of the rule of law is the idea that absolute unfettered sovereign power should be subject to some form of control. This means in essence that a ruler is subject to the law in the same way as citizens of the state. It also encompasses ideas of equality under the law and political ideals of justice and individual dignity. Magna Carta 1215 is often cited as the document from which the rule of law emerged. However, Albert Venn Dicey (1835-1922), can be described as something of a founding father of the concept with his threefold definition of what became known as a formal conception of the principle. This incorporates the principles that first, an individual can only be punished for a specific breach of the law, in the course of a trial in the ordinary courts according to proper procedures. Second that all are equal before the law, including men and women, the high and low ranking within society. Third that constitutional principles develop as a result of the common law. This gives the courts power to protect the people where government steps outside the law. The first principle includes that law should be prospective and not retrospective, that there should be rules governing how law is made and that law should be clear and specific, with court mechanisms and procedures to ensure it is not applied arbitrarily.

Dicey's formulation of the concept of the rule of law and later conceptualisations which sit within the Diceyan tradition address how the law is made and the process by which it is applied and adjudicated upon – hence the label of formal conceptualization of the rule of law. It addresses the form the law takes. Conceptualisation of the rule of law has developed and become contested around whether the rule of law should also include a substantive account of what law ought to be. This approach considers whether the substance of the law is legitimate and/or morally appropriate, usually using international human rights norms as a measure against which to test the legitimacy. Therefore, as a minimum this means the substantive account of the rule of law requires that a legal system take account of international fundamental rights recognised as universal by the majority of states.

Today many international organisations, including the United Nations and the World Justice Project, adopt a substantive concept of the rule of law. They include a reference to adherence to international fundamental rights in their definition of the rule of law when attempting to measure state adherence to it.

The United Nations provides the following definition:

For the United Nations (UN) system, the rule of law is a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires measures to ensure adherence to the principles of supremacy of the law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency.<sup>4</sup>

The incorporation of fundamental rights into the rule of law provides some ability for international and national organisations to measure national state practice against universal norms when assessing adherence to the rule of law. However, what is pertinent to our discussion concerning the measuring process of the extent to which states adhere to rule of law

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<sup>4</sup> United Nations and the Rule of Law (n.d.). "What is the Rule of Law" <https://www.un.org/ruleoflaw/what-is-the-rule-of-law/> (Accessed 12 August 2021)



principles, is the extent to which freedom of thought, conscience and religion is or is not incorporated within the rule of law assessment and the extent to which the two are regarded as co-dependent. In particular whether other rights are prioritised over the right to FTCCR so that states can score highly on a rule of law assessment despite failure to support religious freedom. Evidence in respect of this assessment will be considered in the following section.

From a theoretical point of view the substantive interpretation of the rule of law has been seen by some prominent academics as encompassing a political theoretical approach and/or a moral approach. For some, this takes it outside the scope of law and into the realm of political and/or moral theory. This analysis is informative when considering the assessment of the substantive concept of the rule of law in non-Western contexts. This is because, although crafted as universal norms, for many non-Western states, even for those who adhere to a formal concept of the rule of law, universal human rights norms are aspirational and adherence to international treaties, for many states, is undertaken in full realisation that this is the case. It is a political decision taken in the light of national context, as to whether and what extent fundamental rights can be incorporated into national constitutions. The UK is an example of a state that signed up to both the European Convention on Human Rights as well as the ICCPR, but did not incorporate the full tranche of civil and political rights formally into law until the Human Rights Act 1998. For many states there may be a different approach to public living together which does not accord with the individualistic nature of the rights culture. To combine an assessment of formal rule of law requirements with human rights compliance is combining two different aspects of a constitutional structure. When we seek to measure rule of law compliance globally, we are making certain assumptions about the appropriate moral basis for law and political context in which it is formed and implemented.

There is thus a danger that the substantive concept of the rule of law creates a measure of state practice which takes an approach of ‘human rights by the back door’ in circumstances which makes it difficult for states to meet that standard. Arguably, incorporating rights into the concept of the rule of law is highly beneficial. However, if this is the case, the debate around compliance with the rule of law, needs to incorporate a full and open debate as to the political and moral theory around rights, including around rights that might be problematic for certain states. It also requires a full and open debate concerning the underlying approach to constitutional organisation. In light of this FTCCR comes to the fore as a core fundamental right since it is by permitting plural open public debate around the moral basis of law, including of

fundamental rights, that this articulation and hopefully acceptance, becomes possible. The danger is that if this approach is ignored and non-Western approaches to public living together are not taken into account in an attempt to build consensus, the global rule of law measure becomes perceived of as having a Western bias based on Western concepts of the public good. In addition the incorporation of new structures taking a top-down approach will not necessarily find support at grass-roots level.

This paper will next look at some of the empirical evidence on the potential co-dependency of the rule of law and FTCD in global context. The final section (section 4) of this paper considers what might be argued as the public and individual good of FTCD, such that it is possible to justify its inclusion as a priority in an assessment of adherence to the rule of law and second as a stand-alone fundamental right that states ought to support.

### **3. Some empirical evidence: the 'is'**

According to the World Justice Project, [Rule of Law Index](#) 2017-18, 113 countries around the world adhere to the rule of law<sup>5</sup>. Although other sources claim that 57% of the world population lives outside the protection of the rule of law<sup>6</sup>. The more recent 2020 index surveyed 128 countries applying 8 factors and 44 sub-factors drawn from two sources of data collected by the World Justice Project. The aim being to establish the extent to which each country satisfied the chosen indicators for the application and enjoyment of the rule of law.

The data sources for the 2020 Rule of Law Index were a General Population Poll (GPP) and a Qualified Respondents' Questionnaires (QRA) survey. The data sources included marginalised members of society. The 2020 surveys reflected perceptions of the general public, legal practitioners and experts on the operation of the rule of law. The focus was on policy outcomes, namely whether there was cost-effective access to courts and public services and whether crime control was effective.

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<sup>5</sup> Government action in the light of the global COVID-19 pandemic may well have tipped the scales, resulting in fewer countries being considered as members of this group.

<sup>6</sup> LexisNexis @Legal and Professional. The Rule of Law. <https://www.lexisnexis.co.uk/about-us/rule-of-law> (Accessed 8 August 2021)

The rule of law is defined in the World Justice Project from the perspective of outcomes that the rule of law brings to a society. It identifies four universal principles: first, accountability of government and private actors according to the law; second, just laws, laws that are clear, publicized and stable, applied evenly and that protect fundamental rights; third, open government which means laws that are enacted, administered and enforced in an accessible, fair and efficient manner; fourth, accessible and impartial dispute resolution, which means timely justice delivered by competent, ethical and independent representatives. Eight factors support the four universal principles, namely constraints on government powers, absence of corruption, open government, fundamental rights (including the right to freedom of thought, conscience and religion), order and security, regulatory enforcement, civil and criminal justice<sup>7</sup>. The survey also includes a ninth factor on informal justice, which is not included in aggregate scores and rankings, but which is often evident in countries where formal justice is weak. The WJP ranks countries from 0 to 1 with countries at the lower end of the scale going into the 'red' and countries at the higher end of the scale in the 'green'. Denmark sits at the top of the scale with a score of .9 and Venezuela at the bottom with a score of .27. Countries are also grouped into low, lower middle, upper middle and high-income countries.

The 2020 Rule of Law Index on state performance against the above measures, indicated a correlation between high adherence to the rule of law and high-economic performance. When a comparison is made between the Pew Research Centre data on the enjoyment of religious freedom within a given nation state and the 2020 Rule of Law Index, the correlations between government restrictions on religious freedom when compared to the rule of law index were not as straightforward. For example, at least two governments (India and Indonesia) registered as imposing high levels of government restrictions on religious freedom and very high levels of social hostilities towards expression of religious freedom in the Pew Research study on religious freedom. This compared to a better performance on the rule of law index (India rank 69/128 with a score of .51 in the rule of law index and Indonesia ranked 59/128 in the rule of law index with a score of .59). Similarly, France registered moderate to high social restrictions on religious freedom and moderate government restrictions, whereas it ranked 20<sup>th</sup> on the rule of law index with an overall score of .73<sup>8</sup>. In practice, therefore, it can be said that the application of the rule of law is no guarantee that a state will demonstrate a commitment to

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<sup>7</sup> Cite report

<sup>8</sup> Pew Research Centre: <https://www.pewforum.org/interactives/restrictions-on-religion-among-the-25-most-populous-countries-2007-2018/> (Accessed 8 August 2021)

religious freedom<sup>9</sup>. It appears that more is needed to encourage plural living together above and beyond the implementation of the rule of law. Even if one looks at constitutional structures supporting the rule of law within the Western liberal tradition, some nation states appear to be placing limits on religious freedom, with countries such as France and Belgium supporting a policy of ‘neutrality’ in public life, with the manifestation of religious belief in public spaces and in public and private employment being banned.

These surveys indicate that in practice while there is a correlation between the application of the rule of law in a country and its economic well-being, the correlation between the rule of law and the guarantee of religious freedom is less certain. When these results are compared with the World Happiness Report, the picture becomes even more complex, in particular in the most recent survey taken during the COVID pandemic<sup>10</sup>. There is no clear link between FTCR and general happiness. For example, in the World Happiness Report 2021<sup>11</sup>, Costa Rica (25 rule of law ranking), UAE (30 rule of law ranking), Guatemala (101 on rule of law ranking), Uruguay (22 rule of law ranking), Bahrain, Taiwan, Saudi Arabia (did not take part in the rule of law ranking), all rank 31 or above out of 149 countries surveyed on the happiness index. What is more noticeable is that some countries ranking high in the happiness index appear to have a majority of citizens who adhere to one particular faith. Thus, a country can rank high in the World Happiness Index without necessarily providing religious freedom for its citizens.

While the World Happiness Index involves subjective measures of well-being, including three main indicators: life evaluations, positive and negative emotions – the 2021 report paid particular attention to tracking how COVID-19 had affected different aspects of life. Life evaluations asks those surveyed to assess their current life as a whole using the image of a ladder, with the best possible life as a 10 and the worst possible life as a 0. This was based on 1000 responses annually per country and an average taken over 3 years. The emotional poll asked respondents to indicate whether they smiled or laughed a lot the previous day and whether they experienced specific negative emotions (worry, sadness and anger). Globally

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<sup>9</sup> The Pew Research Centre survey considers religious freedom as an independent aspect of its research and, does not survey the freedom of thought and conscience together with religious freedom. It is anticipated that if it did so, this would impact to a greater degree on the differential between the enjoyment of FTCR and the application of the rule of law.

<sup>10</sup>The World Happiness Report <https://happiness-report.s3.amazonaws.com/2021/WHR+21.pdf> (Accessed 8 August 2021)

<sup>11</sup> <https://happiness-report.s3.amazonaws.com/2021/WHR+21.pdf> (Accessed 8 August 2021)

positive emotions were almost three times as frequent than negative emotions. Finland, Iceland, Denmark, Switzerland and the Netherlands were the highest-ranking countries with Rwanda, Zimbabwe and Afghanistan registering the lowest scores. Switzerland is an interesting case since it scores highly on the 2020 Rule of Law Index and 2021 World Happiness Index, but it has more recently imposed some limited restrictions on the practice of religion in public.

Looked at from the reverse perspective a country may support religious freedom but rank less favourably on the rule of law index. Peru is an example of such a country. In the Pew Research Centres' 2018 report it scored in the top grouping with low social hostility towards religious freedom and low government restrictions on religious freedom<sup>12</sup>. In the Rule of Law Index, however it ranked 80<sup>th</sup> out of 128 with an index score of .5 and in the 2021 World Happiness Report it scored 63/149. We can deduce that religious freedom is not necessarily an absolute guarantee of the successful incorporation of the rule of law into any given constitutional framework nor is it a guarantee of happiness.

However, with all these measures it is important not get distracted by exceptions to the norm. It is also important to recognise that these global indexes are a snapshot in time. There are countries that demonstrate a high score both on the Rule of Law Index and the Happiness Index, they also guarantee high levels of religious freedom. It is also possible that these statistics reveal constitutions in transition, and where a country has focussed improving its application of the rule of law before addressing religious freedom or vice versa the scoring may not be a clear indication of what is happening within a nation state. It is, however, interesting to note that neither the rule of law nor religious freedom is a guarantee for the other in the short term.

These reports demonstrate some interesting and perhaps surprising results and help us to consider where our priorities might lie. Most importantly it is necessary to bear in mind that for many, faith (religious freedom) or the exercise of one's conscience, is not about material wealth (economic well-being) or positive emotion (happiness), but about experiencing a peace, joy and deep contentment which comes from a deep belief and commitment together with a sense of belonging to a community. It can often involve self-denial and sacrifice, ultimately for some it involves martyrdom. This peace can be experienced in the absence of wealth and during periods of suffering, regardless of systems of governance in place. For some faith or

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<sup>12</sup> <https://www.pewforum.org/essay/religious-restrictions-around-the-world/> (Accessed 8 August 2021)

conscience would be a priority over and above wealth and emotional happiness. Some systems of faith in fact renounce worldly wealth and possessions. What the rule of law can do is create conditions for peaceful civil society relations and security. This is an environment within which individuals might or might not find individual happiness and in which they might or might not have the freedom to pursue a religion of their choice. Such civil society conditions can also provide sufficient economic wellbeing to ensure individuals are provided with basic human needs such as homes, food and education in order to enable them to be able to learn about and partake in the exercise of religious freedom or the exercise of their conscience. In so far as the rule of law relates to the ability to live in accordance with the virtues espoused by one's world view (encompassed within the right to freedom of thought, conscience and religion) it is apparent that the rule of law alone is no guarantee that a nation state will support that right. It is important therefore to understand why FTCTCR is important and what good might come to society and individuals from the right<sup>13</sup> in order to justify the inclusion of this right within a constitutional framework.

#### **4. The good of freedom of thought conscience and religion: the 'ought'**

This section of the paper will be completed for publication

## **Conclusion:**

There are many cases where religious freedom and the rule of law appear strong within a state, but evidence from the global surveys indicate they are not necessarily co-dependent. A state can score highly on one without scoring highly on the other. Having considered the empirical evidence on this (the 'is'), this paper in its final form will go on to consider the 'ought', namely should a state that claims to protect the rule of law necessarily also necessarily protect religious freedom, or taking this even further does religious freedom give rise to a public or individual good which indicates that it should be given precedence in constitutional structures even before the rule of law is addressed? It is clear that a state has to be intentional about both religious freedom and the rule of law, since seeking to adhere to the rule of law alone does not guarantee

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<sup>13</sup> Although it is beyond the scope of this paper, it is interesting to reflect on how one might measure the good that might come from FTCTCR – either as an addition to the World Happiness Index or by prioritising it on the Rule of Law Index or by expanding to the Pew Research to include freedom of conscience as well as religion and then assessing levels of peace and joy experienced by those able to live in accordance with their beliefs.

religious freedom and viceversa. In doing so the earlier discussion concerning the substantive conceptualization of the rule of law indicated a need not just to be intentional about both, but a need to clearly articulate the values underlying constitutional incorporation of both the rule of law and FTGR. This is to ensure that in incorporating either or both, account is taken of historical and current country context and the values that underpin public living together and political context.