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Soft Separation Democracy[1]

Jeremy Menchik
Boston University

Abstract: How do nonsecular democracies govern religion? Despite two decades of research on the many ways that church and state overlap in modern democracies, scholars lack an adequate answer to this question. Many consolidated democracies have a soft separation between church and state rather than a wall. These are not defective versions of democracy, but rather poorly understood institutional arrangements. To remedy this lacuna, this paper investigates institutional arrangements in six consolidated democracies with a soft separation between church and state: Bulgaria, Greece, Romania, India, Indonesia, and Switzerland. After describing the institutional workings of these states, the paper develops hypotheses for the origins of soft separation democracy as well as addressing the challenges of this form of government. The paper concludes by suggesting three other potentially fruitful lines of analysis as well as elucidating the implications of soft separation democracy for U.S. foreign policy.

INTRODUCTION

For many decades, scholars of religion and politics believed that state secularism was necessary for democracy to function. Following the theories from the sociology of religion, particularly the work of Berger (1967), scholars argued that without differentiation of church and state, the state would craft policies based on religious doctrine and sectarianism, rather than crafting policies based on reason and the interests of a culturally heterogeneous population (Norris and Inglehart 2011).

For the past two decades, however, scholars of democracy have moved beyond the idea that a sharp differentiation between church and state is necessary for democracy. Inspired in large part by the influential work of the democratic theorist Alfred Stepan, scholars have investigated the origins of the "twin tolerations," a phrase that Stepan coined in his

Address correspondence and reprint requests to: Jeremy Menchik, Frederick S. Pardee School of Global Studies, Boston University, Boston, United States. E-mail: menchik@bu.edu

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article defining the boundaries of freedom for elected governments from religious groups, and for religious groups from governments (Stepan 2000, 37). Democratic governments must be free to generate and implement policies, and religious individuals and groups must be free to worship privately, advocate publicly, and mobilize politically as long as their actions do not impinge on the liberties of others. As Stepan notes, "Within this broad framework of minimal freedom for the democratic state and minimal religious freedom for citizens, an extraordinarily broad range of concrete patterns of religious-state relations would meet our minimal definition of democracy" (Stepan 2000, 40).

Stepan's analysis raises a basic question: How do nonsecular democracies govern religion? Despite two decades of research on the many ways that church and state overlap in modern democracies, scholars lack an adequate understanding of this question. The question also begs two related ones: What are the origins of nonsecular democracy? What are the challenges that this type of government elicits?

This paper answers these three questions by describing the policies, origins, and challenges of states that fit three criteria for case selection as nonsecular democracies.[2] First, the cases are consolidated democracies according to indicators from both Polity and Freedom House.[3] Second, these cases are highly involved in the regulation of religion, according to indicators from the Religion and State Project (Fox 2008).[4] More specifically, these states provide religious education in state schools (mostly mandatory), financial benefits to some but not all religious traditions, and limit the freedom of nontraditional faiths. Third, these are cases where public opinion favors strong support for religion in public life and state policies. More specifically, public opinion data from the World Values Survey demonstrates that these states' populations express strong support for public religious education, believe that it is necessary to believe in God in order to be moral and have good values, believe that politicians that do not believe in God are unfit for public office, and feel that it would be better if more people with strong religious values held public office.[5] Yet, these are not theocracies, but rather states that fulfill the minimal democratic requirements of Stepan's twin tolerations. In other words, these cases—Bulgaria, Greece, Romania, India, Indonesia, and Switzerland—have what Lavinia Stan and Lucian Turcescu dub a "soft separation" between church and state (Stan and Turcescu 2011).

This paer defines "soft separation democracy" as a form of government that differs from its secular counterpart by making the promotion of

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religious values and communal affiliation core goals for civil society and the state. Rather than being underpinned by liberal tolerance and a secular state, soft separation democracy is based on a combined commitment by the state and civil society to promote religious values but is also plural in providing multiple religious pathways. As long as citizens belong to one of the state-sanctioned pathways to religious belief, they become full members of civil society and receive state protection and other benefits of citizenship. Thus, soft separation democracies are different from theocracies in that they are plural, and combine both secular and sacred laws.

After describing the cases, the paper theorizes the origins of soft separation democracy. The most obvious condition is an overwhelming majority of a single, organized religion, alongside a public and vocal religious minority whose interests are represented by religious organizations. A related structural condition is an implicit or explicit bargain between secular and religious elites to promote plural religious values.

Since secular democracy provides the normative baseline for most scholarship on democracy, the paper then addresses the normative concerns about the welfare of minority groups that inevitably arise in discussions of public religion. Using quantitative indicators from Polity and Freedom House, the paper demonstrates that soft separation states are not radically different in levels of democracy from church-state separation states. That said, challenges do arise from this mode of government, especially the problem of power hierarchies within groups that leave women and "minorities within minorities" vulnerable to within-group persecution. Yet such problems are not inevitable in a soft separation democracy and can potentially be alleviated through overlapping jurisdictions, associative democracy, and strong protections for individual rights.

The paper concludes by suggesting three fruitful lines of analysis for scholarship on soft separation democracy, as well as detailing potential policy implications. One policy implication is that by working to strengthen plural democracy rather than secular democracy, U.S. foreign policy can include religious actors without privileging religious identity or exporting an American conception of religious freedom. In practice, this means partnering with any social or political actor committed to democracy and social welfare, including religious groups working to improve public health, protect the environment, and provide poverty relief.

The remainder of the essay develops these points. The section 'LITERATURE REVIEW' reviews the literature on religion and democracy in order to pinpoint gaps in scholarship on nonsecular democracy.

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The section 'SOFT SEPARATION DEMOCRACIES' presents the six cases, paying close attention to institutional arrangements. The section 'HYPOTHESES' lays out hypotheses for the origins of soft separation states. The section 'CHALLENGES' describes the challenges of soft separation democracy as well as potential remedies. The section 'CONCLUSION' concludes with the implications for U.S. foreign policy and recommendations for future research.

LITERATURE REVIEW

Secularization theory has suffered a slow death. The theory held that as countries experienced economic development, religious beliefs and practices, religious organizations, and the integration of religion into other aspects of life would cease. In the most visible articulation of the theory, the renowned sociologist Peter Berger predicted that modernity would bring about a gradual decline of religious observance and religious organizations and the disappearance of the "sacred canopy" which had prevented individuals from making decisions based on scientific knowledge, rational reasoning, and utility maximization (Berger 1967). Other key sociological works on secularization include those of Hugh Martin (1969; 1978) and David McLeod (1981; 2000).

Berger has since described secularization theory as "essentially mistaken" and "wrong," with the exception of Europe (Berger 1999, 2–3). The sociologist Rodney Stark declared secularization theory to be wrong in Europe, too, on the grounds that low levels of religious participation were more common in medieval times than in the present (Stark 1999, 249). Although the sociologist Jose Casanova argues that differentiation of religion is still the norm among modern states, as for the political scientists Pippa Norris and Inglehart (2011) the anthropologist Talal Asad contends, powerfully, that once we recognize that religious actors are public it is impossible to confine religion's influence to a private domain (Casanova 1994; Asad 2003, 181–87, 191).

Political scientists have begun to follow our colleagues in recognizing the shortcomings of secularization theory. In an early and influential account, Anthony Gill pushed the field to draw on the economic sociology of religion, borrowing the analytical tools of the "religious economies" school from Stark, fellow sociologist William Sims Bainbridge, and economist Laurence Iannaccone (Gill 2001). Using comparative quantitative indicators, Jonathan Fox has convincingly demonstrated that most states,

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including modern and democratic ones, are heavily involved in the regulation of religion rather than being differentiated from it (Fox 2006, 537).

The religion and politics literature's recognition that most states are neither fully secular nor theocratic run parallel to insights from scholarship on authoritarianism. An influential article in the *Journal of Democracy* in 2002 argued that the end of the democratic transition paradigm meant scholars needed to stop seeing semi-democratic regimes as slowly transitioning, and instead pinpoints important differences among hybrid regimes, with causal implications. "Different mixes of authoritarian and democratic features have distinct historical roots, and they may have different implications for economic performance, human rights, and the prospects for democracy" (Levitsky and Way 2002, 52). The authors then go on to describe different types of authoritarianism, including electoral authoritarianism, its origins, and its mechanism of transition.

In the next section, I make a similar move toward seeing configurations that are hybrids of theocracy and secular democracy. Doing so builds on an important but underappreciated 2011 volume, *Church, State and Democracy in Expanding Europe*, in which Lavinia Stan and Lucian Turcescu use Stepan's work to document patterns of church-state relations in Eastern Europe. They propose three models. In the *pluralist* model of Hungary, Bulgaria, and Latvia, society is made up of complementary autonomous spheres—education, family, religion—each worthy of recognition and support from the state. Outside of Eastern Europe, this model is similar to the Philippines, Ireland, India, and Indonesia. The *dominant religion* model of Greece, Norway, Denmark, Poland, Romania, Estonia, Slovakia, and Lithuania gives precedence to the religious majority over other groups through formal or informal support. Together, the dominant religion and pluralist models are considered examples of soft separation democracies. In contrast, the third model is the familiar *church-state separation* template of the Czech Republic, Slovenia, the United States, Canada, and France, with its laïcité.

Implicit in recognizing soft separation democracy as a stable form of government is the argument that public religion is not fleeting or ahistorical and may not be normatively problematic. Michael D.P. Driessen makes a similar claim on the basis of a close reading of Italian history and a cross-national analysis, finding that positive endorsement of religion is not necessarily harmful to national levels of democracy, and may even be beneficial (Driessen 2010). He argues that Argentina, Belgium, Bolivia, Bulgaria, Cyprus (Greece), the Czech Republic, the Dominican Republic, Greece, Iceland, Israel, India, Luxembourg, Malta, Portugal,

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and Spain are all states where state favoritism of religion, rather than being harmful to democracy, has actually aided a democratic transition. To arrive at this vantage point we have to take seriously the argument that religious organizations' presence in the public sphere may be beneficial to the public good, rather than starting with the secular liberal presumption that religion in the public sphere is a threat to liberty and/or modernization.

Such a view is not unusual outside the American context. According to the World Values Survey, majorities in 24 countries say that belief in God is necessary for a person to have good values, and there are another 29 countries where more than 40% of the population agrees. Likewise, majorities in 18 countries say that politicians who do not believe in God are unfit for office, or that people with strong religious beliefs will make better politicians, and there are another 23 countries where more than 40% of the public agrees. In Romania, a consolidated democracy, registered religious denominations are recognized as public utilities that benefit the entire population (Stan and Turcescu 2011, 140). In Western Europe, the sociologist of religion Grace Davie argues "Europeans, by and large, regard their churches as public utilities rather than competing firms" (Davie 2002, 43–44). These views have institutional effects; according to Jonathan Fox's dataset on state involvement in religion, 49 governments provide support to religious organizations through general grants, 65 provide funding for religious sites, and 25 provide funding for religious pilgrimage. Such support suggests that rather than being exceptional, many states share the view that religion is a public utility.

The next section will synthesize this research as well as additional empirical material from soft separation democracies. The states discussed in this section take us further beyond the presumption that democracy must be secular by showing how democracy works in states with strong, institutionalized religious influence on public policy.

SOFT SEPARATION DEMOCRACIES

This section demonstrates that these states' policies include financial support for religious actors and involvement in state ceremonies, the regulation of proselytism, the administering of official religious oaths for elected office, the regulation of public demonstration, taxation on behalf of religious actors, the regulation of blasphemy, and religious actors' control over the conferring of building permits. The pluralist model is elucidated using the cases of Bulgaria, Switzerland, and India, while the

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dominant religion model is demonstrated by focusing on Romania, Greece and Indonesia.

The *pluralist* model is clear from the consolidated democracy of Bulgaria. Bulgarians are predominantly Orthodox Christian, with a significant Muslim minority population as well as smaller Catholic, Protestant, Jewish, and non-identifying populations. The Orthodox Church has been prominent and influential in crafting state policies although a split in the Church in the 1990s weakened its authority after the country's transition to democracy. Still, Bulgaria is similar to Poland, Estonia, Lithuania, England, Scotland, Greece, Norway, and Denmark in having a dominant religious group with privileges that other denominations lack. Article 13 of the Bulgarian constitution states that "the practice of any religion shall be unrestricted," but also notes that "Eastern Orthodox Christianity shall be considered the traditional religion in the Republic of Bulgaria" (Stan and Turcescu 2011, 22). The constitutions of Romania, Bulgaria, Lithuania, and Latvia all have similar clauses that may be due to the influence of the 1997 Russian Federation Law on Religion: "Recognizing the special contribution of Orthodoxy to the history of Russia and to the establishment and development of Russia's spirituality and culture; Respecting Christianity, Islam, Buddhism, Judaism and other religions which constitute an inseparable part of the historical heritage of Russia's peoples" (Stan and Turcescu 2011, 216n28). Bulgaria demands that religious groups register and provides differentiated benefits. Non-registration limits the ability of religious communities to practice in public, and Article 26 of the constitution punishes any person carrying out religious activities without representational authority. Articles 51 and 52 impose large fines on those who publicly practice the faith of an unregistered religious group. In the early 2000s, religion was an obligatory subject in 77 secondary schools (Stan and Turcescu 2011, 31). There are articles in the Criminal Code that deal with blasphemy crimes against religious denominations, although these laws tend not to be enforced. Owing to pressure from the Council of Europe and advocacy by human rights groups, the status of minority religions has improved since the late 1990s and has led to state commitments to individual freedom of religious and secular belief (Stan and Turcescu 2011, 31). In sum, while the Orthodox Church has a privileged relationship to the state, other religious traditions and denominations are also recognized, protected, and supported.

Outside of Eastern Europe, the pluralist model is also apparent in the case of Switzerland, one of the world's oldest consolidated democracies. The Swiss Confederation originates in the conglomeration of autonomous

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counties that were allied together through a dense network beginning in the 16th century. After the Protestant reformation, Roman Catholicism predominated in some countries, others became Reformed, and in some states, the two Christian denominations were equally recognized and established. Even today, state-religion relations in Switzerland continue to be radically decentralized, with Roman Catholic, Old Catholic, and Swiss Reformed churches treated differently in the cantons, and sometimes with multiple official churches in a canton (Pacillo 2009, 626). Rather than differentiation of church and state or a tiered registration system like Bulgaria, Switzerland has plural religious establishment. Money from the general fund is used for church expenses, councils and committees, construction and repair of buildings, and salaries for clergy. In the Canton of Fribourg, each parish has the legal authority to tax its own members. In the Canton of Neuchâtel, each citizen is invited to indicate his/her religion to the tax collector and to contribute his/her tithe at the same time he/she pays his/her state taxes. There are mandatory religion classes that are run by the state and present a plurality of religious views. In most cantons, there are no exemptions (Jödicke and Rota 2014, 724). Similar to Bulgaria, then, multiple religions are recognized, established, and supported.

For the past two decades, India, another example of the pluralist model, has been a focal point for theorists interested in democracy in developing, postcolonial states. The political theorist Rochana Bajpai persuasively argues that the Indian state has synthesized ideas about liberal rights and group rights with nationalist appeals to social justice in crafting the world's largest consolidated democracy (Bajpai 2011). The Indian constitution ensures religious liberty to both individuals and communities, which means that the state actively promotes the concerns of religious groups. All religions are defined as equal, and major religious communities enjoy state patronage. Anniversaries of the births of revered figures from many religions are observed as public holidays. The religious personal law applies to Hindus, Buddhists, Jains, Sikhs, Muslims, Christians, Parsis, Jews, and Baha'i, and the government gives weight to their respective religious bodies on matters of personal law reform. Marriage, divorce, adoption, and inheritance laws are by religion. Religious affiliation is on birth certificates. Numerous states within India pay for the preservation of temples and shrines. The state subsidizes the annual Hindu pilgrimage to Mansarover, and the Muslim Hajj is managed and subsidized by the state. Blasphemy is prohibited by the penal code. The Supreme Court has also upheld the communal rights of the majority—for example, holding that administrative bans

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on non-vegetarian food in a holy Hindu city may be lawful, and that banning beef in deference to the majority does not violate the constitution. Missionary work is heavily regulated, and bills protecting local people against foreign missionaries are common. Rajeev Bhargava and others have argued that Indian secularism is best understood as being based on a principled distance that respects all religions but does not rule out the use of the democratic state to protect its citizens against some undemocratic religious practices being imposed on them (Bhargava 2004). India's policies have different origins than Bulgaria and Switzerland's, but in recognizing multiple religions alongside individual rights, India provides a good example of a consolidated democracy with a soft separation between religion and state.

The *dominant religion* model is most clear from the case of Romania. Like Bulgaria, Romania has an overwhelming majority Orthodox population, with some minorities comprising less than 10% of the population. The 1866 Romanian Constitution recognized the Orthodox Church as the dominant church, and the 1923 Constitution notes that "the Romanian Church, being the religion of the majority of Romanians, is the dominant Church in the Romanian state; the Greek Catholic Church has priority over other denominations" (Stan and Turcescu 2011, 135). A 1995 law made religious education mandatory in primary schools, optional in secondary schools, and facultative in high schools and vocational schools, with the specific denomination subject to the consent of the parents. This law was upheld by the Constitutional Court as long as students could opt out, a decision that was bolstered by an Emergency Order by the Romanian president Emil Constantinescu in July 1997, which allowed students to choose not to enroll in religion classes with the permission of their parents. A 2006 law guarantees freedom of thought, conscience, and religion for all citizens while also noting "the important role of the Romanian Orthodox Church and that of other denominations as recognized by the national history of Romania and in the life of the Romanian society" (Stan and Turcescu 2011, 139).

Registered denominations in Romania are recognized as public utilities and receive significant tax breaks. The State Secretariat recognizes 18 religious denominations that enjoy the right to build houses of worship and perform rites of baptism, marriage, or burial, a guarantee of state noninterference, and protection against public stereotypes and negative media campaigns. To qualify, denominations must demonstrate that they are legally established and have operated uninterrupted for 12 years, and that their membership includes at least 1% of the country's population. Religious

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associations, which also get tax breaks, need only 300 members to register. The 385 religious associations, comprising faiths, organizations, and foundations, do not enjoy the financial advantages of recognition, but their nonrecognition does not lead to persecution or punishment (Stan and Turcescu 2007, 26–27, 141). The state pays the salaries of clergy, gives recognized denominations tax breaks, supports clerical and non-clerical staff salaries, and, at the request of denominations, provides funding for repairs and buildings based on the number of worshipers. Romania also has an anti-blasphemy provision that reads, "Any form, means, act or action of religious defamation and antagonism, as well as public offending of religious symbols are forbidden in Romania," although the law carries no penalty (Stan and Turcescu 2011, 140). In sum, Romania's democracy prohibits blasphemy, makes religious education mandatory, requires that religious groups register and provides differentiated benefits, and provides substantial financial benefits to the state church. More so than the Bulgarian Orthodox Church, the Romanian Orthodox Church is a powerful player in the country giving it privileges from the state, including ones that smaller denominations lack.

Beyond Eastern Europe, the dominant religion model also applies to Greece, which has an overwhelming majority Greek Orthodox population. The Eastern Orthodox Church of Christ plays a prominent role in state ceremonies and in the conferring of building permits, it has a major influence on the education system, and the salaries of the clergy are paid by the state. Alterations or translations of the Bible from Greek are prohibited without permission from the church. Proselytism is prohibited and defined as a "direct or indirect attempt to intrude on the religious beliefs of a person of a different religious persuasion, with the aim of undermining those beliefs, either by any kind of inducement or promise of an inducement or moral support or material assistance, or by fraudulent means or by taking advantage of his inexperience, trust, need, low intellect or naivety" (Section 4 of Law 1363/1938 as cited in Temperman 2010, 218). The blasphemy provision allows seizure of publications in cases of offense against Christians or other religions. Likewise, the penal code attaches a penalty to blasphemy against God, divinity, or Greek Orthodox religion, although in practice this legislation is seldom invoked (Temperman 2010, 240). Greece has the compulsory religious education to develop "religious consciousness," although non-Orthodox students may be exempted upon formal request (Mavrogordatos 2010, 121–22). Cremation of the dead is generally not allowed because of church opposition. There is a compulsory religious oath for the president

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and an optional one for members of parliament. In short, Greek democracy includes religious influence on public education, state support for clergy, restrictions on the right to translate the Bible, on proselytism, and on blasphemy, religious oaths for public office, and church control over death rites.

One final case is worth detailing before discussing some of the challenges facing soft separation democracies. Indonesia is closest to the pluralist model, though with aspects of the dominant religion model. It is the world's largest Muslim-majority country, albeit with large non-Muslim populations as well as significant divisions within the Muslim population. Laws concerning personal identity are based on membership in one of the six recognized religions—Islam, Roman Catholicism, Christianity (Protestant traditions), Hinduism, Buddhism, and Confucianism—inscribed on each individual's identification card, although in some regions the bureaucracy will allow individuals to leave the religion section blank. The state privileges these recognized religions, and any educational institution under the auspices of the Ministry of Religion receives funding while being subject to oversight. Article 31 of the 1945 constitution was amended in 2003 to include a clause committing the government to a "system of education that increases religious faith, devoutness, and character." Article 12 (1) is understood to require all schools, public and private, to provide religious education to all students or be subject to sanctions (Lindsey 2012, 235–36). The Ministry of Religion maintains that interreligious marriage is not allowed. The 1965 law prohibiting blasphemy and the 2008 law restricting pornography have narrowed constitutional guarantees of free speech. Religious proselytization is highly regulated, especially the building of new places of worship. Article 86 of the 2003 Child Protection Law states that any person who uses deceit, lies, or enticement to make a child choose another religion against their will is subject to a maximum jail sentence of 5 years and/or a fine of 100 million rupiah (approximately US$7,500). Alms collection, in Islam known as *zakat*, is tax-deductible and administered by the state (Horowitz 2013, 247; Law 38/1999). In sum, Indonesia's democracy includes mandatory religious education, official recognition of some religions but not all belief systems, financial support for some religious communities, state enforcement of the personal law, protection of group rights through restrictions on blasphemy, and restrictions on missionary activity.

Together, Bulgaria, Switzerland, India, Romania, Greece, and Indonesia demonstrate not the necessity of state secularism but the many ways in which church and state may be intertwined in a modern democracy. Stan and Turcescu document other policies worth noting for scholars that

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believe secularism is necessary for democracy. All post-communist EU members except Slovakia provide religious instruction in public schools. The Polish and Slovak constitutions have preambles that make explicit references to God or the contribution of religion to the country's history. While no post-communist constitution elevates the religious majority to the rank of state church, in practice several treat denominations differently; the Catholic Church in Poland, Hungary, Slovakia, and Lithuania and the Orthodox Church in Romania have a different status than other churches. All post-communist EU members allow religious denominations to register with the state authorities on request.

These cases demonstrate that tolerance—the willingness to "put up" with ideas or groups that are different—can flourish in a variety of different political systems and not just the variant of secular-liberal tolerance based in individual rights, the separation of church and state, and state neutrality toward religion. Instead of only secular-liberal tolerance, these states are organized around both individual rights and a form of communal tolerance where rights are defined by group membership. In all of these countries, the state supports the rights of religious communities rather than just individuals and actively intervenes in religious society in order to promote values that bolster communal identity. For example, the Indian state's support for minority rights, including differential treatment for Scheduled Castes (Untouchables) and Other Backward Classes (low-caste groups), transcends mere tolerance to provide support for the amelioration of disadvantage rather than just the recognition of cultural difference. Stepan has argued that this form of muscular multinationalism has been pivotal to India's democratic success.

HYPOTHESES

This section presents hypotheses to explain the origins of democracies with a soft separation between church and state. To do so, it draws on David Buckley's explanation for the origins of "benevolent secularism" (Buckley 2017). Ahmet Kuru's typology of "assertive" (Turkish, French) and "passive" (American) secularism provides the backdrop for Buckley's conceptual contribution (Kuru 2009). Benevolent secularism is defined as an institutional relationship between religion and state that (1) maintains *differentiation* of religious and state institutions, (2) institutionalizes *cooperation* between religious and state actors in the democratic public square, and (3) establishes what a "principled distance" between the

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state and diverse religious communities (Bhargava 2004). *Principled distance* means that cooperation between religion and the state must be available to all religions so that religious actors able and willing to participate in public life should have that opportunity and have their views taken seriously in crafting policy. Buckley divides the majority religion into the "religious integralists," who want religious establishment, and the "pious secularists," who are religiously observant but favor differentiation. He divides the state and civil society elites between the "accommodationists," who are willing to compromise with the religious blocs, and the anticlerical bloc. Finally, he divides the minority between those that favor interfaith engagement and those that favor separation. He argues that where benevolent secularism develops, pious secularists align with secular accommodationists and minorities in favor of interfaith engagement.

The most obvious condition for the dominant religion model is an overwhelming majority of a single religion alongside a public and vocal religious minority whose interests are represented by religious organizations and whose leaders align with religious integralists. All six of the cases discussed above are countries with an overwhelming majority religion: India is 78% Hindu; Indonesia 88% Muslim; Bulgaria 82% Christian Orthodox; Romania 87% Romanian Orthodox; and Greece 98% Eastern Orthodox; Switzerland's cantons were determined by confession, with the exception of Geneva and Neuchatel. The Peace of Kappel in 1531 determined the geography: "Although there were confessionally mixed regions in Switzerland, the principle and idea of strict confessionalism dominated the ecclesiastical and political establishment, a principle which individuals and groups in society made use of for their own ends" (Loetz 2008, 82–83).

When a majority of religious integralists is politically organized and able to lobby for policies in a democratic system, some of its demands will need to be accommodated by political institutions. In the Romanian case, after communism, the Orthodox Church applied enormous pressure to receive recognition as a national church but instead was recognized as a "public utility" with formalized cooperation in education and economic development and informal influence in elections (Stan and Turcescu 2011, 6–7). In the Indonesian case, attempts by mass Islamic organizations to have the state apply Islamic law failed in 1945, 1952, and 2002, but instead the state has increasingly accommodated demands for religious education, restrictions on blasphemy, group rights including restrictions on interfaith proselytizing, support for some religious beliefs over others, and restrictions on interfaith marriage.

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A related structural condition is an implicit or explicit bargain between secular accommodationists, religious integralists, and minorities that favor interfaith engagement to promote plural religious values. In the Bulgarian case, the quasi-established Bulgarian Orthodox Church is recognized as having a historic role in the state, with relevance for political life, without being an established church. In the Indonesian case, Islamic organizations and Islamist parties have gradually moderated their demands for an Islamic state as a result of their inclusion in the democratic process and have been rewarded by voters, leading to further moderation. Meanwhile, the secular parties have either moderated their policies toward inclusion or, if not, have lost vote share. The big winners have been the two middle groups: inclusive Islamic and inclusive secular parties (Baswedan 2004). These groups have accepted a bargain where the state promotes religion but is plural in recognizing that modern democracies must accommodate diversity. In the Greek case, the Greek Orthodox Church was established as the national church in the first constitution of 1822 (Mavrogordatos 2010, 123, 125). In all three cases, an implicit or explicit bargain between elite blocs has led to a soft separation democracy.

In sum, soft separation democracies seem to arise from a coalition of religious integralists, secular accommodationists, and minorities in favor of interfaith engagement. This analysis suggests that soft separation democracies are likely to change to other models if there is a shift in the underlying elite coalitions. The state is likely to become more secular if secular accommodationists and engaged minorities shift their alliance to the pious secularists. Conversely, the state may become more theocratic if the majority religion is able to marginalize pious secularists and the anticlerical bloc.

CHALLENGES

Indicators from Polity and Freedom House for the above countries suggest that the church-state separation, dominant religion, and pluralist models are not radically different in levels of democracy.

Table 1 demonstrates this point clearly using the cases discussed above. The dominant religion and church-state separation states have the highest levels of democracy according to Polity, followed by the pluralist states. The ranking is slightly different using Freedom House indicators, with church-state separation states most democratic, followed closely by dominant religion states, then pluralist states.

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Table 1. Democracy scores and soft separation democracy

	Average polity score	Average freedom house score
Church-State Separation Model (France, United States)	9.5	88
Dominant Religion Model (Greece, Romania)	9.5	84.5
Pluralist Model (Bulgaria, India, Indonesia, Switzerland)	9.25	79.25

Source: Polity IV (2015); Freedom House 2018. The Polity score is measured on a 21-point scale ranging from −10 (hereditary monarchy) to +10 (consolidated democracy). The Freedom House score is an aggregate indicator of political rights and civil liberties ranging from 0 (least free) to 100 (most free).

That said, soft separation states face challenges due to their provision of rights to religious groups, similar to the challenges confronted by other group rights states. Muscular multinationalism, liberal multiculturalism, confessional consociationalism and other systems of group rights suffer from the challenge the political theorist Ayelet Shachar calls the "paradox of multicultural vulnerability" (Shachar 2001). The accommodation of group rights can bolster groups' internal hierarchies, thereby reducing the rights of internal minorities. This has been an issue in the cases discussed here. For example, non-observant members of the Romanian Orthodox Church are de facto subject to religious education, since there is peer pressure to attend the classes and schools may schedule religion classes during the middle of the day, making it difficult to opt out (Stan and Turcescu 2011, 11–12).

Another challenge with group rights is that some religions are often privileged over others based on historical legacies, bureaucratic limitations, and group size. For example, in Greece's ranked registration system, the Orthodox Church, the Jewish community, and Muslims in Thrace are recognized as legal entities of public law with the right to own, bequeath, and inherit property, while Scientologists, Hare Krishnas, and polytheistic Hellenic groups cannot function as religious entities in the eyes of the law, and the government does not recognize weddings conducted by leaders of these groups. Likewise, in Indonesia, mandatory religious education is tolerant to members of the six recognized religions but discriminates against non-observant students, atheist students, interfaith students, as well as those whose faiths are not recognized by the state.

A third challenge with regulating religion is that "truth" may become subject to power relations authorized by the state, thereby abrogating the

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fluidity, syncretism, and heterogeneity that attends culture. For example, in Greece, muftis are appointed by the state instead of through community elections, which makes these religious leaders beholden to state authority and creates incentives for them to make Islamic law more rigid than was the case in traditional *qadi* courts. Conversely, the fact that Indonesia does not have an official state Islamic body means that there is a vibrant public sphere within the Muslim community, allowing historically marginal groups like Islamic feminists, Islamic liberals, and Islamists to debate in the public sphere rather than through less civil means.

Yet, these are not problems without a solution. Stepan, Linz, and Yadav argue that collective rights are compatible with democratic governance as long as "throughout the polity individual rights are constitutionally inviolable and state-protected" (Stepan, Linz, and Yadav 2011, 18). In other words, individual rights must trump group rights. Likewise, drawing on the Canadian experience, Shachar proposes an innovative model for "joint governance" between the state and the cultural group, where some persons jointly belong and bear rights and obligations to more than one community and more than one source of legal authority. Recognizing that individuals always have multiple identities, Shachar argues that both the group and the state have legitimate claims of jurisdiction over their constituents, in an interactive way with no hierarchy. Such a system would mean that the state and the group would compete for the support of their constituents, thereby encouraging each entity to be responsive to all its constituents.

The political theorist Veit Bader provides a mechanism for ameliorating historical discriminatory legacies (Bader 2007). He proposes a model of *associative democracy*, which balances strong guarantees for individual religious freedom with associational freedom and maximum accommodation of religious practice constrained only by a minimal morality. Associative democracy provides tax exemptions for organized religions, public funding for faith-based organizations alongside public scrutiny, and opportunities for organized religions to be involved in governance, and it gives specific duties to recognized religions for sharing information, participating in public forums, and joining advisory councils.

While it is unlikely that either Shachar's or Bader's proposal could *resolve* the inevitable tensions of accommodating conflicting rights, they might decrease social conflict and channel it toward democratic means of resolution. Soft separation states *displace* the inevitable contradictions of trying to accommodate the conflicting demands for individual rights, group rights, historically rooted prerogatives for religious institutions,

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and religious freedom that face modern, plural democracies. They cannot *resolve* these tensions any more than do secular institutions.[6]

CONCLUSION

As shown by the six cases reviewed here, democracies need not be secular. Scholars investigating the interconnections between religion and law in the global context would be well served by investigating the variety of ways democratic states govern religion, and the conditions under which democratic states will embrace one of the soft separation models. Given the centrality of religious actors to the politics of the modern world, scholars and policymakers desperately need new thinking about how to peacefully combine public religion and democratic institutions.

As the above examples illustrate, non-secular democrats can be accommodated and incorporated into modern political institutions rather than repressed by secular dictators. Indonesia provides strong evidence that if you allow Islamist organizations to participate in the political process, they will moderate their demands and become part of the system rather than seek to overthrow it. This is the opposite of what has happened in most of the Middle East, where secular despots with foreign backing have coopted Islamists or actively oppressed them, often with the backing of the United States. As long as groups do not use violence, do not violate the rights of other citizens, and stay within the rules of the democratic game, they can all be accommodated by civil and political society.

Recognizing soft separation democracy as a stable form of government opens up at least three other potentially fruitful lines of analysis for future scholarship. One is to follow Driessen and more seriously examine how public religious organizations can help make democracy work. Non-secular and non-liberal visions for democracy are almost entirely missing from the literature (an exception is Putnam and Campbell 2010). What kind of democracy do integralist Muslims and Catholics want? How do their visions vary? How are their visions similar to and different from the secular one? For example, for the past 20 years, scholars have been debating how to "reconcile" Islam and democracy in order to address the democratic underdevelopment of the Muslim-majority countries of the Middle East. They have devoted less attention, however, to a more important (and less polemical) question: *What kind of democracy do Muslims want?* Recent work suggests that the world's largest Islamic organizations, the Indonesian groups Nahdlatul Ulama and

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Muhammadiyah, favor a confessional consociational form of democracy where each recognized community has religious freedom but is not free to interfere in the faith matters of others. Indonesia's Muslim leaders favor a democracy in which individual rights and group-differentiated rights converge within a system of legal pluralism, a vision at odds with the American-style secular government but common in Africa, Asia, and Eastern Europe (Menchik 2016).

A second potential line of analysis is to look more closely at the reasons why soft separation democracy seems to be more common in Eastern Orthodox and Muslim-majority states, rather than Protestant ones. One possible explanation, following the "multiple modernities" literature, is that Muslim and Eastern Orthodox modernities take on a different form than mainline Protestant ones (Eisenstadt 2000). A second possible explanation, consistent with the teleology of modernization theory, is that soft separation states are likely to evolve toward church-state separation as their traditions liberalize (Norris and Inglehart 2011). A third explanation puts less emphasis on the deterministic connections between political cultures and political institutions, and more on the historical context in which states democratize. In this reading, Russian influence is powerful in shaping Central and Eastern European forms of governance, while Dutch and British colonialism informed Indonesian and Indian state policies, respectively.

A third promising line of research is to examine how soft separation democracy might transition to church-state separation. This dialogical process is how Bulgaria justifies its balance of individual and communal rights. In reference to the Bulgarian Denominations Act of 2002, which gives recognized religious organizations constitutional privileges while also giving individuals religious freedom, Petkoff notes, "It represents a particular school of jurisprudence and political philosophy which advocates that liberal values in a society can be introduced and achieved through a programme which has as its logical aim a particular communitarian model of society as the initial state of a community and character-building process" (Petkoff 2005, 315). In other words, communal tolerance has fostered stability and may bring about other forms of religious accommodation.

In sum, scholars investigating the interconnections between religion and democracy in a global context would be well served by continuing to investigate the ways in which non-Western democracies govern religion, to determine the conditions under which democratic states will embrace institutional relationships beyond the secular model, to assess the benefits

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of public religion, and to explore religious actors' visions for more enchanted variants of democracy.

NOTES

1. Versions of this essay were presented at the 2015 Conference on Law and Religious (un)freedom in the Global Era, and the 2016 meeting of the American Political Science Association. I am grateful for thoughtful feedback from David Buckley, Peter Danchin, Michael Driessen, Mayanthi Fernando, Diana Kim, Tamir Moustafa, Oscar Salemink, Kaija Schilde, Erica Simmons, Nicholas Rush Smith, Kari Telle, and thankful to the editor and anonymous reviewers of *Politics and Religion* for their assistance in improving the paper.

2. In using the term "nonsecular" I follow anthropologist John Bowen's definition of secularism as a project of state actors attempting to domesticate religious authority, albeit often unsuccessfully (2010). Bowen's definition complements Jonathan Fox's research measuring levels of government involvement in religion. Bowen's definition departs from Talal Asad's (2003) conception of "the secular" as an abstract quality or idiom of sovereignty. While Asad's definition is invaluable for genealogies of modernity, it is less helpful for comparative analysis since the ostensible ubiquity of "the secular" masks important differences between levels and types of religious regulation.

3. Democracy score is based on two data sources. The Polity IV scores use a –10 to +10 scale to measure how authoritarian or democratic a state is, with scores of 6–10 indicating democracy. Greece and Switzerland have scores of 10, India, Romania, and Bulgaria have scores of 9, and Indonesia has a score of 8. Center for Systemic Peace (accessed November 27, 2017 at http://www.systemicpeace.org/inscrdata.html). *Freedom in the World* is an annual report on political rights and civil liberties that gives each country or territory a score of 0–4 points for each of 10 political rights indicators and 15 civil liberties indicators, with the result being a 0-100 scale. Using Freedom House's 2018 rankings, Switzerland has a Freedom House score of 96, Bulgaria (80), Greece (85) and Romania (84), India (77), and Indonesia (65). Freedom House (accessed April 4, 2018 at https://freedomhouse.org/).

4. Data were developed by Jonathan Fox and were coded from U.S. Department of State's 2008 International Religious Freedom Reports. Jonathan Fox, "Religion and State dataset," (accessed November 27, 2017 at http://www.religionandstate.org).

5. World Values Survey (accessed November 27, 2017 at http://www.worldvaluessurvey.org/wvs.jsp).

6. On the limits of law's capacity to resolve conflicting demands for individual rights, customary law, and group rights, see Sullivan (2005), Comaroff and Comaroff (2012), and Fernando (2012).

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