

The Institutional Foundations of Religious Freedom

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How did religious freedom emerge? I address this question by building on the framework of Johnson and Koyama's *Persecution & Toleration: The Long Road to Religious Freedom* (2019). First, I establish that premodern societies, reliant on identity rules, were incapable of liberalism and religious freedom. Identity rules and restrictions on religious freedom were part of a political-economy equilibrium that ensured social order. Second, I examine developments like the Reformation and the Industrial Revolution, as shocks to this premodern identity rules and conditional toleration equilibrium. Finally, I consider several examples that support the claim that the move from identity rules to general rules allowed religious freedom to flourish.

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The modern resurgence of research on the social scientific study of religion can be dated to the seminal work of Iannaccone (1988, 1992) and Finke and Stark (1987, 1992, 2005). Subsequent to this, scholars began to turn their attention to the political economy of religion. Initially, this work was largely done by political scientists and sociologists – notable contributions including research establishing the link between religious regulation and secularisation (Finke, 1991; Iannaccone *et al.*, 1997), work on Catholic parties in Europe (Warner, 2000) and on the complex relationship between Catholicism and the state in Latin America (Gill, 1994, 1998).¹

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¹For an extensive review of the literature in comparative politics, see Gill (2001).

More recently, economists have also turned to the political economy of religion (e.g. Barro and McCleary, 2002, 2005) and to the role that religion has played in economic history (Iyigun, 2008; Becker and Woessmann, 2009; Kuran, 2010; Rubin, 2017).² This literature is increasingly a global one, encompassing both the Middle East (Livny, 2020) and India (Iyer, 2018) as well as Europe and the Americas.

One important topic within the wider literature on religion, politics and economics is religious freedom. How, when, and why did religious freedom arise? What constitutes genuine religious freedom? And what is the relationship between religious freedom and other liberal freedoms? In a recent book, together with Noel Johnson in *Persecution and Toleration* (2019), I approach these questions from the perspective of institutional economics. In this article, I develop this approach further and apply it to several important historical episodes.

The relationship between religious freedom, freedom of conscience and liberalism more generally remains full of unresolved puzzles. This paper sheds light on three of these puzzles. Specifically, it seeks to understand (i) why religious freedom has only flourished in certain societies, (ii) why religious repression was ubiquitous until modern times and (iii) why religious freedom remains contentious. I do so by presenting a framework for understanding the interactions between religious policies and other economic and political considerations.

The approach developed differs from most accounts in the literature in its focus on the institutional foundations of religious freedom. Older accounts of the origin of religious freedom stressed the contributions of liberal thinkers such as John Locke, Pierre Bayle and Voltaire, who put forward compelling arguments for greater religious liberty (Jordan, 1932, 1936; Lecler, 1955, 1960). Recent scholarship has drawn attention to earlier and, often religious, advocates of religious freedom such as Sebastian Castellio, Dirck Coornhert, Roger Williams and John Milton, among others (see Nederman, 1998; Zagorin, 2003).

It is now also increasingly recognised that early modern arguments for toleration had Christian rather than secular underpinnings (Wilken, 2019). Early Christian thinkers theorised about many of these issues many centuries before the Enlightenment. There is also an emphasise in the recent historiography on a radical tradition and the best recent accounts in this vein trace the intellectual influence of thinkers such as Spinoza through numerous secondary and less well-remembered writers who diffused the new ideas (e.g. Israel, 2001, 2006). A common feature of both traditional and recent arguments, however, is their stress on the intellectual case for religious freedom as opposed to the institutional changes that made it possible.³

²For general surveys of the economics of religion, see Iannaccone (1998) and Iyer (2016).

³Important older accounts include Jordan (1932, 1936) and Lecler (1960). More recent accounts include Sutherland (1984), Laursen and Nederman (1998), Murphy (2001) and Zagorin (2003).

In contrast, until recently, among non-specialists, there was a tendency for historians and social scientists to agree with Herbert Butterfield's claim that religious toleration was achieved through spiritual and material exhaustion (Butterfield, 1977).⁴ In these accounts, the Thirty Years War (1618–1648) loomed large – an allegedly religious war that ended with neither side being able to impose their faith on their opponents. This view also steeped into countless accounts in political science that linked religious toleration to the rise of secular states, particularly after the Peace of Westphalia in 1648 (see the discussion in Asch, 2000; Blaney and Inayatullah, 2000).⁵ Much recent scholarship rejects this emphasis, preferring to note that religious tensions and conflicts dragged on into the 18th century and disputing the recognisable cessation in religious warfare around 1648 (Kaplan, 2007).⁶

Both of these arguments contain much truth. But, without dismissing either of these factors, I will argue that they miss fundamental developments occurring at the institutional level. The thesis of this paper is that accounts of the origins of religious freedom that are not grounded in an understanding of the institutional changes that took place in early modern Europe are incomplete and do not provide a secure foundation for understanding liberal societies and values. That is, one needs an account of religious freedom that is consistent with the arguments made concerning the institutional and economic developments that took place in Europe between the Reformation and the Industrial Revolution. Institutional changes that North *et al.* (2009) labelled the transition from limited access societies to open access societies.

The approach developed in Johnson and Koyama (2019) builds on the work of the prior work of numerous scholars. Specifically, we build on the work of Greif (2006) in approaching historical institutions as equilibria. It is also informed by the scholarship of public choice, particularly by Ekelund and Tollison (1981); Ekelund *et al.* (1996) and their analysis of rent-seeking in historical societies, and the analysis of medieval Christianity. In building on public choice approach to politics, it also shares an affinity with rational choice approaches in political science, notably Gill (2008) who provides a political economy explanation for the rise of religious freedom. Gill (2008) applies a rational choice framework to explain the rise of religious freedom in colonial British America, Mexico and Latin America, and Russia and the Baltic States.

Gill (2008) stresses the importance of political considerations of secular rulers in explaining how religious freedom came about first in Western Europe and then

⁴For a discussion of this thesis, see Zagorin (2003, p. 10).

⁵See Christenson (2012) for the case that Peace of Westphalia was decisive in the history of religious freedom.

⁶See Whaley (1985), Laursen and Nederman (1998) and Spohnholz (2011) for discussions that undermine the traditional view of the Thirty Years War as a breakpoint in the history of religious toleration.

in North America and other parts of the world. That is, he sees political and religious authorities bargaining over the degree of religious freedom in society with political authorities facing different trade-offs depending on the degree of political competition. Like Gill (2008), Johnson and Koyama emphasize the incentives facing political actors and share his scepticism towards accounts of the emergence of religious freedom that emphasize the role of ideas rather than interests. But while we build on a similar rational choice foundation, we stress the importance of broader institutional changes that took place in Western Europe between the Middle Ages and the modern period. That is, we ground the emergence of religious freedom in the broader transformation that took place in European states and economies in the period leading up to the Industrial Revolution.

One feature of the argument outlined is that it is grounded in recent work in economic history and institutional economics.⁷ A key theme is that through most of history, states relied on religion to legitimate political authority (as argued by Gill, 1998, 2008; Coşgel and Miceli, 2009; Rubin, 2017; Greif and Rubin, 2020). The symbiotic relationship between religious and secular authority can be traced through history, both in periods where this authority was fused in a single individual and where ‘church’ and ‘state’ came into conflict.

Religion played a smaller role legitimating political power in some societies (i.e. China). But this pattern was all but ubiquitous throughout history. It survived the rise of more humanitarian religions during the Axial Age, religions such as Christianity and Buddhism, which protested against structural inequality common to large-scale agricultural societies. As a consequence, religion and political authority were closely tied together.

The contribution of institutional economics to this historical discussion is that it provides a parsimonious explanation for the widespread prevalence and stability of identity rules and conditional toleration. This framework also explains why its demise led to its replacement by a system of general rules that made liberal states viable for the first time.

The central insight is that this church and state partnership meant that the modern notion of religious freedom was not an option for premodern rulers. It was simply not in the feasible choice set. This does not mean that the state *always* used violence to enforce religious conformity; often, it was too costly to attempt forced homogenisation. But, no one doubted that the state had the ultimate right to coerce religious practice.

⁷By institutional economics, I refer to the insights associated with the work of Ronald Coase, Douglass North and his various collaborators, especially Barry Weingast and John Wallis (North and Thomas, 1973; North, 1981, 1990; North *et al.*, 2009), Avner Greif (2006), Acemoglu *et al.* (2005a, 2005b), Acemoglu and Robinson (2012) and many others.

There was variation in how various premodern societies such as the Romans, Persians, Arabs, medieval Christians, Mongols, Chinese and Japanese dealt with religious heterogeneity. But, this variation can be contained within the category of conditional toleration. To illustrate this point, take two societies that have been labelled notionally tolerant in matters of religion: the Romans and Mongols. Both are often seem to be relatively indifferent to the religious beliefs of their subjects.⁸ Neither, however, had any scruples about religious persecution when they saw it as required for political stability. Similar considerations determined the policies of Japanese rulers as they vacillated between favouring and then ruthlessly suppressing Christianity in the early 17th century.⁹

To summarise, this church–state partnership came under renewed pressure following the Reformation. Historians have described the numerous attempts of rulers to enforce ‘confessionalization’ after the disruption caused by the Reformation (Adams, 1991; MacCulloch, 2003; Greengrass, 2014). But outside of southern Europe and Scandinavia, these attempts were only partially successful, and religious diversity remained in England, France, the Netherlands and in the German lands.

This religious diversity was consequential. Modern social scientific research suggests that there are benefits to living close to individuals with different cultural beliefs and values.¹⁰ Such societies are more open, innovative and dynamic. But there are also costs in the form of greater conflict (Arbatlı *et al.*, 2020). Perhaps, the most important impact of religious diversity was on the alliance between church and state.

After the Reformation, the partnership between religion and the state could not be fully restored in many parts of Europe. The resulting uncertainty and disruption prompted a switch to other forms of legitimation. The ostentatious claims of royal absolutism made by James I, Charles I and James II in England and Louis XIV of France can be viewed in this light. This development is often evident in the careers of individuals such as Cardinal Richelieu’s France. As noted by his biographer, Richelieu ‘hated the Huguenots as heretics and sought by various means to effect their return to the Roman but was willing to tolerate them and allow them to live unmolested as long as they remained loyal subjects of the crown’ and ‘opposed the use of force to being about their restoration to Catholicism’ (Church, 1972, p. 87). This change induced more pragmatic attitudes towards religious minorities. Jews

⁸For claims of religious toleration under Mongol ruler see, for instance, Lane (2006, p. 120), May (2013, p. 195) and Gier (2014, p. 2). Scholarly treatments include Atwood (2004). Roman religious toleration is discussed by North (1979).

⁹See Boxer (1951).

¹⁰See Cinnirella and Streb (2017).

were readmitted into England and France, often on openly mercantilist grounds. These policies spread to central Europe after 1648. After 1670, Prussia became more open to religious minorities. During the 18th century, these policies gradually diffused across much of northern Europe.

These developments were driven in part by military competition and the increasing scale of European states after 1500. Warfare put unprecedented pressure on the conditional toleration equilibrium – pressure that produced the ‘crisis of the seventeenth century’. I document how institutional developments that arose from this crisis provided the preconditions for the development of the modern state governed by the rule of law. This political transformation provided the institutional foundations for modern liberalism. It provided a setting hospitable to liberal ideas.

None of this made early modern European societies liberal. They were not. But it opened the way to the rise of more liberal societies, where a liberal society is defined as one in which people are free to experiment with different approaches to the good life (Thrasher and Vallier, 2018).¹¹ European states after circa 1700 can be viewed as on a *corridor* that would lead to liberalism, although nothing about this corridor made this development inevitable (to use the metaphor of Acemoglu and Robinson, 2019).

Certainly, the rise of more powerful states was a mixed blessing for individual liberty. On one hand, as Levy (2015, p. 1) observes: ‘[t]he consolidation of the modern state, and its gradual liberalization, has consisted in large part in the replacement of various kinds of patrimonial and local power by accountable and justifiable authority that treats persons as free and equal’. Modern states were agents of liberalisation, insofar as they dismantled local tariffs, abolished the monopoly restrictions of guilds and trade organisations, and reduced the arbitrary authority of local power holders.¹² But they also encroached on local liberties and committed numerous injustices.

The remainder of the paper is structured as follows. I first distinguish between conditional toleration – the default condition of premodern states towards religious differences and religious freedom – an institutional commitment to liberty. Next, I consider why it required the rise of modern states for genuine religious freedom to emerge? The answer to this question lies in the observation that premodern states predominantly relied on identity rules to provide social order. Reliance on identity not only precluded the development of rule of law, but because religion was always

¹¹Alternatively, liberal state can be defined as states that use their authority in ways that can be rationally grounded in liberal principles.

¹²The array of internal trade barriers is documented by Heckscher (1955). Their dismantling by more centralised states is documented by Epstein (2000); Spaulding (2011) and Johnson and Koyama (2017).

a salient part of an individual's identity was also incompatible with full religious freedom.

The second part of the essay substantiates these claims, drawing on several historical cases, including societies that are often considered to have been comparatively religiously tolerant. These case studies suggest that identity rules and religious freedom were incompatible. They also provide suggestive evidence that the move towards more general rules that occurred in Europe after 1700 was responsible for the rise of modern liberal regimes.

The final part of the essay considers alternative arguments, including the role of liberal ideas, the Reformation, secularisation, Europe's Christian heritage, and economic and cultural change. Each argument possesses merit. But taken individually, or even in combination, they fail to provide an adequate account of liberalism's rise. They struggle to account for either timing of crucial historical changes or to identify why a specific change happened in a particular place.

Concepts and Definitions

Conditional toleration versus religious freedom

I distinguish between religious freedom and toleration. This distinction goes back at least to Ruffini (1912) and is also emphasized by Butterfield (1977), who noted that both toleration and religious liberty refer to distinct regimes – to self-contained and self-referential systems of government and belief. But, in ordinary language, tolerance has come to mean both the temporary recognition of values/behaviours that are considered heinous and a commitment to the principle that each individual should be free to find their own values.

The distinctive commitment of liberals is not to toleration *per se*, but to religious freedom. The absence of religious persecution does not make a society religiously free. Differentiating between religious freedom and toleration (what I will define as *conditional toleration*) has several advantages. It distinguishes genuine liberal regimes from polities that practice limited forms of toleration for pragmatic reasons before resorting to episodic religious persecution. This enables more precise identification of the timing of the emergence of religious freedom and other key features of a liberal state, and thereby to better explain the institutional foundations of such regimes.

Premodern societies did not recognise the principle of religious freedom. But nor did they generally seek to police religious beliefs. They lacked the capacity to do so in any case. Rather, they were characterised by conditional toleration. The bounds of toleration varied from society to society. Within these bounds, individuals might have a considerable degree of freedom. And everyday co-existence between people

who believed in different things was often peaceful. But the bounds of what was permissible were determined by political and religious authorities without recourse to liberal notions about freedom of conscience.

One point of contention stems from the concept of religion itself. Scholars have discussed whether it is even possible to meaningfully define religion (Smith, 1962). Cavanaugh (2009, p. 59) criticises researchers who study the relationship between religion and violence without defining religion. If there is ‘no transhistorical or transcultural concept of religion’, can one even compare different societies in terms of their commitment to religious freedom? Sullivan (2007) similarly argues that religious freedom is ‘impossible’ because there is no accepted definition of what religion is. This austere position has ensured that religious scholars are excluded from wider discussions of religious toleration and religious violence within political science and in public discourse more broadly. It is also overly restrictive. Despite the complications posed by the different roles played by religion in different societies, one can still provide a meaningful account of how religious freedom came to modern societies.

Modern liberal states are committed to religious freedom as part of a wider commitment to individual freedom. Liberalism is a broad family of ideas that contains many disagreements, but both classical and modern liberals agree on the centrality of freedom of conscience. Chandran Kukathas describes liberalism thus conceived in the following terms: ‘Liberalism does not care who has power; nor does it care how it is acquired. All that matters is that the members of society are free to pursue their various ends and that the polity is able to accommodate all peacefully’ (Kukathas, 2003, p. 253).¹³ This formulation is sufficient for our purposes as the broad sense that in liberal societies there is a strong presumption towards granting individuals freedom: actions are considered licit unless they are expressively forbidden and there is a rough adherence to some form of the Millian principle that individuals should be free to do whatever they choose so long as this does not cause harm to others (Mill, 1859, 1989).

Of course, real world societies do not perfectly embody liberal principles. But in liberal societies, there is at

¹³This definition of liberalism is compatible with, but does not require, a specifically liberal theory of human nature such as Rawls’s argues for in his *Theory of Justice* (Rawls, 1971, p. 523) (see, for a detailed discussion, Gaus, 1983). As Ryan (2012, p. 23–26) observes there are many liberalisms encompassing both the classical liberalism of Smith (1776) and Hayek (1960) and the social democratic liberalism of Rawls. Or as Tomasi (2012) notes both classical liberal and high liberalism belong to the same intellectual family. Dan Klein has traced the evolution of the words liberal and liberalism in western political discourse as part of his *Lost Language, Lost Liberalism* project.

least a shared aspiration towards these goals. The institutions of conditional toleration are incompatible with these goals of a liberal society since a commitment to religious liberty for groups can clash with commitment to individual autonomy.¹⁴

Identity rules versus general rules

Cooperation among strangers, perhaps the distinguishing characteristic of humans as a species, relies on rules. For most of history, these rules have been either personal or based on social identity. Personal rules function well when social cooperation is limited to the small band. Band members can trust one another to cooperate because the chances of future interactions are extremely high. In the language of game theory, band members engage in a series of indefinitely repeated Prisoner's Dilemma and coordination games with one another. The promise of repeated play sustains cooperation. Personal rules have a serious shortcoming, however; they are of limited use in dealing with strangers.

As the scale of society increased, personal rules ceased to be sufficient, identity rules enable social cooperation to be scaled up. Following North *et al.* (2009) and ongoing work by John Wallis, Johnson and Koyama (2019), call rules that depend on the social identity of the individuals that they are applied to, identity rules. The Maghribi traders studied by Greif (2006) are an example of how identity rules can support wide-scale cooperation. But, such rules require markers of identity. Different individuals receive different treatment based on these markers. Outsiders could not benefit from the Maghribi network. Similarly, looking across medieval society, nobles and priests almost always faced different rules to peasants. For instance, priests had the 'benefit of clergy' exempting them from the jurisdiction of secular courts for many offences. The salience of religious identity in most premodern societies means that religious distinctions have often played a crucial role in enforcing identity rules. Using identity rules is costly. Reliance on identity rules restricted economic as well as religious freedom. Freely entered into, and mutually beneficial, contracts were prohibited: Jews in medieval and early modern Europe were not allowed to hire Christians, lending at interest within (though not between) members of different religions was prohibited. Similarly, partnerships between individuals of different faiths could not be enforced in court. These were simply the direct effects. Reliance on identity rules also indirectly restricted trade by limiting social contact between different groups.

¹⁴For extensive discussion, see Kymlicka (1996) and Kukathas (2003).

An important part of any definition of the rule of law is adherence to general rules that are uniformly applied to the population at large. As such, rule of law as it is usually understood it is incompatible with such identity rules.¹⁵

Institutions as self-reinforcing equilibria

Butterfield's observation that religious toleration and religious liberty constituted distinct systems or 'regimes' can be operationalised viewing institutions as *equilibria* (Greif and Laitin, 2004; Greif, 2006).¹⁶ Institutions are the result of 'human action but not human design' in the words of Adam Ferguson (1767, 1782). While organisations such as central banks or law courts are designed, the system of rules, expectations and beliefs that they generate are an emergent phenomenon.

Emphasizing the self-reinforcing nature of the beliefs, expectations and payoffs that jointly comprise an institution helps explain perhaps the most salient feature of institutions, their stability. But institutions also change. It is natural to view such change as a response to exogenous shocks and to focus on examples where institutions rapidly unravelled or collapsed. But institutional change can also be gradual as discussed by Mahoney and Thelen (2010). The framework proposed by Greif and Laitin (2004) distinguishes between institutions that are either self-reinforcing or self-undermining. A self-reinforcing institution induces behaviour that is consistent with and strengthens the institutional equilibrium. A self-undermining institution induces behaviour that weakens the institution. Institutional change can be viewed as stemming from a shift in the underlying parameters that means that an institution that was once self-reinforcing is no longer so.

Game theoretic studies of institutions are abstractions, but they can explain otherwise puzzling features of institutional change. For example, revolutions and social changes often appear to start slowly, building momentum gradually then take-off at a vertiginous pace (Kuran, 1995). Game theory sheds light on the dynamics of

¹⁵Rule of law is often used as shorthand for a host of institutional arrangements that are considered favourable for social flourishing. Legal scholars prefer to define the rule of law more narrowly. Joseph Raz, for instance, argued for a thin definition of the rule of law. The logic of such procedural definitions of the rule of law implied that '[a] nondemocratic legal system based on the denial of human rights, on extensive poverty, on racial segregation, sexual inequalities and religious persecution may, in principle, confirm to the requirements of the rule of law' (Raz, 2009, p. 4). But this is emphatically not how the term is used in either common parlance or in the social sciences. See Koyama (2016) for a discussion.

¹⁶This institutions as equilibria approach endogenises the enforcement of institutional rules (see Greif and Kingston, 2011). Our approach here is most directly influenced by institutional economics but it is highly consonant with work in historical institutionalism. See Hall (2010) for an explanation of the common ground between historical institutionalism and rational choice approaches used by economists.

such ‘tipping points’ and can thus account for the otherwise inexplicable dynamics of the French and Russian Revolutions or the Arab Spring.¹⁷ In the case of religious freedom, it can help to explain why an individual monarch in favour of religious freedom, such as Charles II of England (1660–1685), could have a little actual impact on either the imprisonment of nonconforming Protestants or the execution of Catholics. Yet by the 19th century, once these institutional changes had begun to take hold, even the personal objections of the monarch to Catholic emancipation could not prevent it.

An important insight from the work of Greif (2006) is that institutional change will only be lasting to the extent that the behaviour and expectations that it elicits make it self-reinforcing.¹⁸ Here, ideas and interests are complementary explanations. A change in both dimensions is usually required. That is to say, a change in the realm of ideas alone cannot fully explain a change in institutions. From this perspective, purely ideational accounts are unsatisfactory. To influence outcomes, it has to be in the interest of individuals to adopt and propagate them. Ideas alone are insufficient to explain institutional change unless they can explain why it is in the incentive of the relevant actors to adopt particular ideas. This does not deny the power of ideas, which, in the long-run, can be immensely influential.

Taking the Theory to the History

The framework sketched above and developed in Johnson and Koyama (2019) gives rise to several predictions. These predictions can be taken to the history.

The first claim is that reliance on identity rules is incompatible with religious freedom. Identity rules and conditional toleration can coexist but not religious freedom or liberalism more generally. For this to be true, it has to be the case that premodern societies that are sometimes held up as instances of religious pluralism do not satisfy the conditions required to be deemed liberal. I consider toleration in ancient Rome and various Islamic societies. The evidence I consider suggests that they did not permit religious freedom.

Second, the importance of religion for political legitimacy depends on the costs and benefits of enforcing religious conformity. A change in the distribution of religious beliefs should therefore lead to a change in a society’s reliance on religious

¹⁷For example, revolutions and social movements can be modelled as global games (Angeletos *et al.*, 2006; Edmond, 2013; Little, 2016; Barberà and Jackson, 2017).

¹⁸This is one additional insight that one obtains from the kind of institutional analysis employed by Johnson and Koyama (2019) that one does obtain from a rational choice that simply focuses on the costs–benefit calculation facing a ruler at a given point in time.

legitimation.¹⁹ To examine the implications of this claim, I consider the political role of religion changed following the Reformation.

Third, a key argument of Johnson and Koyama (2019) is that general rules, liberalism and religious liberty are congruent, but identity rules and religious liberty are not. For this to be the case, it has to be that once a society moves away from identity rules to general rules, it faces pressure to introduce more religious liberty. To substantiate this, I consider the breakdown of the equilibrium between church and state in 19th century Britain.

The absence of religious freedom

Roman religio and the limits of imperial 'toleration'

As the above discussion has foregrounded, the Romans did not have a distinct concept of religion. Religion was not distinct from civic identity: '[t]he religious identity of a Roman was precisely to be a Roman and to worship the gods of Rome' (North, 2007, p. 228). Religious practice was so integrated into all aspects of civic life that Romans tended not to view the other religions they encountered as they conquered the Mediterranean as a threat. At the same time, in elite circles, there was widespread scepticism of traditional religious practices.²⁰

Religious practices in the ancient world were syncretic and highly localised. Each city had its cultic practices, i.e. its *religio*, but these were integrated into a coherent Mediterranean-wide sacred canopy. The city of Rome alone, let alone the empire, was too big for anyone to effectively regulate religious behaviour and the world of Roman religion was in some respects extremely variegated and heterogeneous.

Nevertheless, in other respects, the religions of the ancient Mediterranean were very similar (Graf, 2007). All classical civilisations recognised a concept of impiety or offence to the gods. Within the civic community, an act of impiety could have collective consequences. It was for this reason that impious individuals were to be punished, often through exile, though on occasion by death.²¹

Thus, while Roman toleration is often praised, it did not stem from the same source as the modern liberalism but was a consequence of the syncretic nature of Roman religion. Nor did it extend to individuals who were guilty of acts of impiety.

¹⁹This point is also made in Gill (2008, p. 55–57). It is developed at length and formalised in Johnson and Koyama (2013).

²⁰See the discussion in Champion (2017).

²¹See Scheid (2016).

This distinction helps to make sense of Roman attitudes to Christianity. Christianity posed a threat to the Roman sacred canopy because early Christians appeared to be openly impious.²² Their scorn for the traditional gods, who they regarded as demons, and for traditional religious rituals, which they saw as devil worship, lead to accusations of atheism. Roman persecutors saw Christianity as heinous and as destructive of the bonds of political and social life. Nonetheless, particularly in the first two centuries of imperial rule, Roman administrators usually lacked the manpower or administrative capacity to seriously police religious beliefs, as a result officially frowned upon sects like Christianity was able to grow rapidly.

From this perspective, the idea of pagan tolerance was a misnomer (Drake, 1996). It was precisely because Roman religious syncretism stemmed from a different, and decidedly non-liberal, source than modern attitudes to religious freedom, that explains why Roman rulers had no qualms in persecuting Christianity. And this is why once Rome adopted Christianity as an official religion, it came to adopt a policy of enforcing Christian worship, discriminating against both those remaining pagans and Jews.

Recent historians have sought to downplay the extent of the Roman persecution of Christianity on the grounds that the persecutions were not concerned with the content of religious *belief*, but with the risk Christianity was thought to pose to the empire itself (Moss, 2013). This distinction, however, is misleading. All persecutions are political, and the repression of early Christians is not fundamentally different from other episodes of persecution such as that of the Christians in Japan. Far more plausible is the assessment of Stark (2011, p. 141) that the persecutions, particularly those from the mid-3rd century onwards were sincere and motivated by the popular belief that Christianity was an affront to the gods.

Roman persecution of Christianity, though sporadic, was severe. It lends claims that the Romans were religious tolerant unconvincing.²³ Early Christians did advance the case for religious freedom.²⁴ Pagan Romans only developed a coherent theory of religious toleration in relation to Christianity in the 4th century. First, Constantine proclaimed freedom of worship in the Edict of Milan in 311. But remarkably rapidly, Constantine and his successors were proclaiming prohibitions on animal sacrifice and other forms of pagan worship. By the end of the 4th century, ancient

²²The extent to which Christian norms were at variance with traditional Roman mores is discussed in Stark (1996). Similar considerations applied to Roman attitudes towards Judaism as discussed by Goodman (2008). Also see Rutgers (1994).

²³There were also occasional judicial executions of converts to Judaism, for example, in the reign of Septimius Severus (see Feldman, 1993).

²⁴Specifically Christian thinkers such as Tertullian and Lactantius. See Digeser (1998, 2016) and Shah (2016).

paganism had been made all but illegal, and the leaders of the Christian Church, most notably, Augustine, had developed a comprehensive theoretical justification for religious persecution and repression.

In reaction to these policies, pagans, like the Senator Quintus Aurelius Symmachus (345–402), put forward a credible intellectual case for religious pluralism: ‘We gaze up at the same stars; the sky covers us all; the same universe encompasses us. Does it matter what practical system we adopt in our search for the Truth? The heart of so great a mystery cannot be reached by following one road only’ (Symmachus, 1996, 10).

But despite the wealth and power he held, his and other arguments were swept away. Instead, Augustine’s theoretical justification for persecution carried the day. Nevertheless, while paganism was repressed, there were no widespread mass persecutions.

Islam and condition toleration

Consider another religious tradition, albeit one in the Abrahamic family of monotheistic faiths: Islam. Many commentators celebrate the tradition of Islamic toleration, at least in comparison to Christian intolerance (e.g. Menocal, 2002). This comparison, though not without a kernel of truth, is often exaggerated and rests on a misapprehension.²⁵ Medieval Christianity, Islam and Judaism confronted similar problems when it came to maintaining religious orthodoxy and suppressing religious deviancy. Throughout Islamic history ‘the ideal singularity of the unified community (*umma*) was, in reality, in tension with its plurality and diversity. “Muslim” polities, ethnicities and religious groups had differing levels of commitment to Islam and differing senses of Islamic identity’ (Ames, 2015, p. 20).

The maintenance of religious conformity was an important task for all medieval Islamic rulers. As ongoing work by Timur Kuran discusses, early conflicts in Islamic history over apostasy was largely about enforcing tax payments from tribes that had pledged allegiance of Muhammad but not to his successors than about religion (Kuran, 2019, 2010). The repression of heresy was thus a duty incumbent upon Muslim rulers. Sufi mystics suffered frequent persecution. Caliph al-Qadir (r. 991–1031) suppressed the rationalist Mu’tazilites. The punishment for heresy ranged from exile or imprisonment to death, often by crucifixion (Ames, 2015, p. 86–87). As the Abbasid caliphate weakened, the importance of maintaining religious orthodoxy grew. And as political authority fragmented in the Islamic world after 1000, the new states ‘themselves attended to heresy, particularly for the purposes of

²⁵The Qur’an contains statements justifying both toleration and repression of non-Muslims. See the discussion in Bosworth (1982).

establishing legitimacy'. Ames concludes that '[i]n the distinct religious-political contest of medieval Islam, protecting the state was to combat heresy (and vice versa), just as political rebellion was bound up with heresy (And vice versa)' (Ames, 2015, p. 169).

Similarly, while virulent anti-semitism was generally less present in the Islamic world than in the Christian West, violence and persecution were not unknown. Pogroms 'usually occurred at times of stress and danger, when the Islamic world was threatened from within or without, by pestilence or famine, religious division or foreign invasion' (Lewis, 1986, p. 124).

No pre-modern society was free from these concerns. In summary, in the Islamic world only conditional toleration existed for 'people of the Book'. In practice, this conditional toleration was often extended to other religions when expedient. In these respects, Islamic practice was inline with that of other premodern empires. This can be best appreciated in the case of the Ottoman empire.

The Ottoman empire

The attitude of the Ottomans to religious diversity largely followed practices established during earlier centuries. While heresies appear to be less prominent in Middle Eastern history than in Europe, when it did occur it was brutally repressed. During the reign of the Ottoman emperor Murad II (r. 1421–1444 and 1446–1451), for instance, a Persian dervish was burned alive for heresy.

As is well known, the millet system institutionalised this differential treatment of Jews and Christians within the Ottoman empire. This system preserved a degree of freedom for minorities such as Jews that they did not experience in contemporary Europe. For this reason, perhaps a majority of Jews fleeing persecution in the Iberian peninsula found a home in the Ottoman empire where they were by and large protected from violence. The millet system enabled Christians and Jews to use their own legal systems, and this increasingly conferred on them an advantage in comparison to Muslims in commerce and trade (particularly with Europeans) (Kuran, 2010). This was a highly successful form of conditional toleration.

The term *conditional* deserves emphasis, for while minorities were often protected by the Ottoman state, there were occasional religious persecutions directed against minorities who did not qualify as people of the book, such as the Yazidis, who had no strong external protectors, and were of little economic value. And as the empire weakened in late 19th and early 20th centuries, the majority of Muslim Turks became increasingly hostile and fearful of the many minority populations they ruled with tragic consequences for the empire's Armenian population between 1894 and 1924 (Morris and Ze'evi, 2019).

In summary, while the Ottoman empire appeared a haven of relative religious toleration in the 16th century, there was no sense in which it was on the path towards greater religious freedom. Toleration was always conditional. Even today, most Muslim majority countries continue to be characterised by conditional toleration. For example, in Pakistan, religious freedom is mandated by Article 22 of the Constitution, but then qualified as being subject to public order and morality. The reality of life in Pakistan is that there is no religious freedom or protection from persecution for those who abandon Islam (see Tyler, 2008). In the next section, I apply the Johnson and Koyama (2019) framework to Europe following the Reformation.

Shocks to religious belief and the declining value of religious legitimacy

How did the value of religious legitimation to rulers change following the Reformation? Attempts to find examples of religious liberty in premodern societies from the Middle East, Asia or elsewhere are unconvincing. Nevertheless, the political importance of religion did vary across societies. It loomed larger in Christian Europe, for example, than in Song China. In *Persecution & Toleration*, Noel Johnson and I argue that the success of the Reformation can be viewed as a shock to religious preferences. This leads to a natural question: how did this shock affect European states?

Medieval Europe was characterised by considerable religious diversity. The experience and practice of medieval Christianity varied greatly from place to place. Church attendance was difficult to enforce and monitor. Priests were often uneducated and unable to impart the teachings of the Church faithfully. Different saints were worshipped in different ways across Western Europe. Shrines were often located where previously there had been pagan holy sites or places of worship, and local customs emerged concerning the ability of a particular saint to cure a particular disease or favour a particular group (Bossy, 1985). Religion was interlaced with social and economic practices, particularly through the guild system which gave rise to rich variation in local practices across Europe (Hanawalt, 1984; Richardson, 2005; Ogilvie, 2019).

Seen through this lens, medieval European attitudes to religious pluralism were less dissimilar to those of other societies than is often supposed. It is true that particularly after the Crusades, Europeans felt their religious identity in a particularly intense fashion and increasingly defined in opposition to the religious *other* – enemies of Christ such as Jews, Muslims or heretics (Moore, 1987).²⁶

²⁶The Crusades saw the creation of a western notion of Islam as a heretical and perverted version of Christianity (Daniel, 1960).

Similarly, the Reformation was not initially dissimilar to earlier revolts against the Catholic Church. An important difference was that Martin Luther had the printing press. Rubin (2014) provides econometric evidence that printing was crucial to the early success of Protestantism. Rubin (2017) goes on to argue that the Reformation reduced the value of religious legitimacy to secular rulers.

This is certainly true in the long-run. But it provides less guidance for what happened in the immediate aftermath of the Reformation. The immediate response to this disruption was violent precisely because of the political role played by religion. Heretical movements that challenged the Church could not but also challenge the state and the entire social order. Nowhere is this more apparent than in the letters of Thomas Müntzer, who addressed the secular Count Ernst of Mansfeld in the following revolutionary terms:

“Now tell us, you miserable, wretched sack of maggots – who made you into a prince over the people whom God redeemed with his own precious blood? You should and you must prove whether you are a true Christian; you should and you must demonstrate your faith, as Peter commands . . . You must also repent of your blatant tyranny, you must tell us who made you so foolish that you became such a wicked heathen to the disadvantage of all Christians, all the while claiming to be Christian yourself. But if you stay away and will not do as we have urged you to do, then I will denounce you before the whole world with upraised voice, and every brother will be prepared to spill their own blood to fight you, as if you were the Turk. Then you will be hunted down and rooted out, for every man will be far keener to gain an indulgence at your expense than any indulgence that the Pope ever offered.” (Müntzer, 1523)

Müntzer and his followers were extirpated. But the threat that they posed startled contemporary elites and explains why they were repressed so fiercely. Indeed, precisely because they called for the disestablishment of the church and freedom in religion, Anabaptists were singled out as uniquely dangerous enemies by Catholics and Protestants alike. Several thousand Anabaptists were executed during the 16th century, including large numbers in Switzerland, Swabia, Franconia and the Habsburg Tirol. The period of most intense persecution was the 1520s and 1530s when local magistrates suspended standard legal practice “[b]ecause of the threat of “rebellion, uprising, and bloodshed,” and proceeded “without the solemnity of the law” (Classen, 1972, p. 377).

In the middle years of the 16th century religious violence erupted across Europe. From a broader historical perspective, the period of extremely intense religious violence was actually short-lived. It lasted around two decades in most countries – the worst violence in Germany was between the 1520s and 1530s, in England between the 1530s and 1550s and in France between the 1540s and 1570s. Contrary to accounts such as the mutual exhaustion thesis that emphasize the Thirty Years War, the period of the intense religious violence was not in the 17th century before the Treaty of Westphalia, but in the initial decades following Luther's rise to prominence.

Nor can the Reformation be isolated from political developments. Religious change interacted with patterns of state building. Across Europe, the reformation of religion was accompanied by violence and became intertwined with the state building process. Consider England. Popular imagination is fixated by the imposition of religious change from above by Henry VIII (r. 1509–1547) and his ministers in the 1530s. But it is perhaps more useful to view England as experiencing several 'Reformations' in the 16th century. First Henry VIII broke with Rome, abolished the monasteries, sold off Church land while seeking to pursue a religious middle road between evangelical reformers and traditional Catholicism. But Henry's vision was largely of a national Catholicism in which he replaced the Pope. It was only in the reign of Edward VI (1547–1553) that the leading Reformers had the freedom to implement the ideas advocated by continental Protestants. It was in the early 1550s, therefore, that the spirit of evangelical religious reform was really felt across England with the introduction of the Common Prayerbook. These years saw the destruction of much religious imagery as a spirit of iconoclasm took hold. However, in 1553, the attempt to introduce ecclesiastical reform along Calvinist lines failed. Then Edward became ill and died.

The next reign saw another massive attempt to 'reform' the religious establishment, this time along Catholic lines. Mary I (r. 1553–1558) is notorious for burning over 200 Protestants in her short five-year reign. But there was also an ambitious program of religious reform which involved improving the quality of the clergy, educating priests and eliminating simony. There were also plans to introduce Catholic versions of vernacular scripture (Marshall, 2016). While the Pope naturally rejoiced at England returning to the Catholic fold, this was a national Catholic reformation implemented by Englishmen like Cardinal Reginald Pole.

Again the death of the monarch interrupted developments. Elizabeth I's (1558–1603) long reign established the Church of England as the national church. Church attendance became enforced by law. Those who did not attend were known to be Catholic recusants and subject to an escalating series of fines that could

bankrupt families and lead to the imprisonment of those who could not pay. Elizabeth's reign also saw pressure from below from evangelicals who wished for further religious reformation. Over time, therefore, the Anglican Church saw a split with a faction emerging who saw the religious settlement of 1559 as merely a waystation on the road to creating a godly state, and by the 1580s, these Puritans were increasingly at odds with the monarch and the religious establishment. This would have important consequences for England's political development in the 17th century.

The implementation and enforcement of religious change involved a transformation in the nature of the state. Historians no longer use the term a 'revolution in government' introduced by Elton (1953) to describe the changes introduced by Thomas Cromwell, as the prevailing scholarly view emphasizes pragmatic evolutionary rather than revolutionary change.²⁷ Nevertheless, the religious changes introduced by each successive Tudor monarch required implementation by local officer holders (justices of the peace, magistrates and others) and local churchmen who were loyal to the crown as opposed to their feudal lord or the transnational Catholic Church. At critical junctures, such as when facing down the Pilgrimage of Grace in 1536 or the Northern Rebellion of 1569, the royal government had to defeat the independent powers of local lords and elites. These were bloody affairs: more than 600 individuals were executed in response to the Northern Rebellion in 'a retaliation more brutal than following any previous 16th-century rebellion' (Marshall, 2016, loc. 11252–11253). The old feudal nobility was disarmed and weakened. Political authority was centralised in the hands of the monarch who ruled in conjunction with Parliament (Greif and Rubin, 2020).

In France, as in England, the repression of heresy was accompanied by state centralisation under Francis I.²⁸ There followed a period of harsh repression, but in France, unlike in England, royal authority weakened in the second part of the 16th century, leading to civil war between Protestant and Catholic factions. The French monarchy could not impose the kind of solution that Elizabeth I employed to balance different fractions. Religious peace came only in 1596 with the Edict of Nantes, which provided *conditional toleration* for Protestants in France for almost a century. This, however, would prove temporary.

Protestantism had less impact in southern Europe where there was less initial tension between the hierarchy of the Church and vernacular culture. In Spain, the clergy and monastic orders had already been reformed in the early 16th century, and

²⁷See Coby (2009).

²⁸The interaction between the repression of heresy and state building in France is considered in detail in Johnson and Koyama (2013).

the Spanish Inquisition proved a formidable barrier to the spread of heretic ideas from northern Europe (see Eire, 2016).

To summarise, taking an institutional approach complements recent scholarship that has turned away from studying the positions of major thinkers such as Locke and Bayle in favour of micro-studies of how these debates played out on the ground. Social historians who have drawn attention to the local ‘tactics of toleration’ evolved by local communities independent of thinkers of statesmen. The everyday practice of people in Reformation Germany or the France of the Louis XIV defied the aspirations of their rulers and the practices of accommodation, and the tensions that surrounded them often present a different image than the aspirations of religious conformity held by rulers.²⁹

Protestantism itself did not bring about great religious freedom: at least not directly. The emblematic case of Protestant repression is the execution of Michael Servetus condemned to death in Calvin’s Geneva in 1553, and Protestant opinion across Europe approved of this (see MacCulloch, 2003, p. 244–245). Despite the Protestant emphasis on justification by faith and on an individual’s personal relationship with God, the Reformation itself did not lead directly and inexorably to religious freedom. Indeed, there were many potential institutional responses to the religious diversity that was generated. Where the Reformation succeeded entirely, as in Calvin’s Geneva, there was no space for dissent, especially of the radical kind espoused by Servetus. The Calvinist state was highly illiberal in both religious and social affairs (see Johnson and Koyama, 2019, pp. 129–130). In Germany, Lutheranism became the state religion of those polities that had embraced the Reformation.

The tendency of Protestantism is to fracture into multiple branches led to growing religious diversity over time. This was evident in England in 1640s when ‘[s]ect multiplied as church courts and censorship collapsed’ (Murphy, 2001, pp. 93–94). Nonetheless, while this proliferation of sects made attempts to enforce religious conformity much more difficult, they did not directly lead to serious consideration of religious freedom among political elites.

Throughout Europe’s Reformations, the call for religious toleration came only from the weaker side, whoever currently happened to face persecution. Sometimes even they rejected it as French Protestant did in the 1550s. Calls for toleration reflected the opinions of those who were exhausted and dismayed by religious conflict, and they did become more common as the violence of religious conflict

²⁹See Hanlon (1993), Luria (2005), Spohnholz (2011) and Chapman (2015). Other examples include Whaley (1985). For an overview, see Kaplan (2007).

increased in the 1550s and 1560s.³⁰ At no time, however, they were taken seriously by policymakers as anything but temporary ploys.

Even the weaker side in these disputes did not argue for the virtues of religious freedom.

General Rules and Moves Towards a More Liberal State

What changed after 1700? One implication of the argument outlined here is that political liberalism and religious freedom require societies that are based around the enforcement of general rules. I now consider the empirical basis for this claim.

This requires investigating what factors were responsible for the movement towards religious freedom that did occur in Western Europe after 1700. The first point is that early developments were linked to practical and pragmatic considerations and hence cannot be entirely separated from the concerns that animated the *politiques* in late 16th century France. The difference between toleration and religious freedom does not lie in the beliefs of individual thinkers so much as in the overall institutional environment. Cardinal Richelieu and Colbert helped to establish and protect a Jewish community in southwestern France because they hoped Jewish merchants and traders could help finance war with Spain. Similar considerations likely influenced Oliver Cromwell's decision to readmit Jews to England.³¹

What about France? The toleration for Protestants achieved by Henri IV and the Edict of Nantes was brought to an end by Louis XIV. Encouraged by ministers who exaggerated the number of conversions to Catholicism, and convinced that it was possible to reunify France religiously, Louis inaugurated a policy of persecution. It is always possible for an autocratic ruler to reverse a previous policy. What is less appreciated is that Louis XIV's policies ultimately failed. Persecution proved counter-productive. Far more Huguenots fled overseas than Louis's ministers had anticipated. Moreover, conversions achieved through force are rarely genuine. Of those who did convert, many soon reverted to their old religion. By the 1720s, anti-Protestant laws were no longer being enforced in Paris. Garrioch quotes a Lieutenant-General on a family known to practice Protestantism:

³⁰During the Marian persecutions, Alfonso de Castro, the Spanish chaplain for Philip II (them as Mary's consort, king of England) actually argued against sentencing heretics to death. But this was an argument from pragmatism – he was the author of a book entitled *On the Just Punishment of Heretics* (Marshall, 2016, loc. 0357). Numerous Catholics hoped for religious toleration in Elizabethan England.

³¹The role played by Richelieu in protecting France's nascent Jewish community is discussed by Israel (1985, pp. 96–97). On Cromwell's decision, see Katz (1991).

“[They were] all new converts who accomplish badly their Catholic duty. They have, however, a very good reputation among the merchants and I am assured that they conduct their business as wood merchants with great probity.” (Garrioch, 2014, p. 61)

Protestants in France continued to experienced hardship and even persecution. The Jean Calas case that gained lasting infamy because of Voltaire’s campaign of exoneration is the most notorious example. But it was infamous precisely because it exemplified the fanaticism of local magistrates in Toulouse whose attitudes were at odds with those of Paris and much of the rest of the country. Voltaire saw the absolute monarchy as more friendly to the cause of religious freedom than the local *parlements*.³²

These examples raise a more general question: Why did monarchies with absolutist aspirations sometimes pursue policies that favoured greater religious liberalism?

Enlightened absolutists?

Why were powerful and autocratic rulers and their ministers – including Frederick II in Prussia, Joseph II in the Habsburg Empire, Catherine II in Russia, Marquis de Pombal in Portugal, and Andreas Peter Bernstorff in Denmark – favourable to greater religious toleration? The answer to this question is to be found less in the writings of the *philosophes* than in the political and economic incentives that they faced.

A tradition of religious toleration emerged in Prussia under the Great Elector Frederick William, a Calvinist governing largely Lutheran lands. Richardson (1910) argued that Frederick William’s policy of toleration stemmed from religious principle rather than simple expediency. Richardson (1910, p. 96) notes that ‘Believing in toleration for the individual, he believed also that it was the duty of the state to secure it. He disregarded, and ultimately broke, the opposition of the Estates when, as in Prussia, they called toleration ‘a most injurious liberty’, and demanded, ‘that the Lutheran religion alone, *exclusis omnibus aliis*, should be retained pure and simple until the end of the world’. Catholics in Prussia and Cleves were granted not a ‘mere connivance’ but the full exercise of their extensive legal rights. Regardless of whether the Great Elector was solely motivated by principles, it is also evident that Prussia gained materially from this policy.

³²See the excellent discussion in Levy (2015, pp. 159–170).

In particular, Prussia benefited immensely from the inflow of Huguenots to a territory with a reputation for relative toleration following the Revocation of the Edict of Nantes.

For example, Hornung (2014) documents how the expertise of Huguenot immigrants help to transform the local textiles industry.

Relatedly Hornung (2019) finds that areas of Berlin settled by Jews and Huguenots were characterised by a more diverse and specialised textiles sector.

In contrast to Prussia, the Habsburg lands saw a continuation of repressive policies against Jews, Protestants and other minorities into the 1770s. This changed, however, with the accession of Joseph II in 1780. Laws ensuring that Protestants would not be persecuted were passed. And influenced by Christian Wilhelm Dohm's *Über die bürgerliche Verbesserung der Juden* (*On the Civic Improvement of the Jews*), Joseph II introduced partial emancipation for Jews. Joseph II was persuaded by Dohm's argument that the Jews could be more usefully employed so as to benefit the body politic if they were freed and integrated into society.

Dohm and other cameralist thinkers were rarely inspired by liberal sentiment. Dohm conceded to his opponents 'that the Jews were more morally corrupt, criminally inclined, and antisocial than other peoples . . . Using 'sophistic artistry,' rabbinical exegesis had falsified Mosaic Law and had introduced 'narrow-minded and petty regulations' to the Jewish religion' (quoted in Berkovitz, 1989, p. 26). While such indulging of antisemitic sentiments may have been in part rhetorical, Dohm was certainly not a modern liberal: he wished the Jews civil rights, but not necessarily full political rights (Rose, 1990, p. 72). He accepted that the state might legitimately choose to favour Christians over Jews and he saw their emancipation as justified insofar as it benefited the state.³³ It was these arguments that carried weight with policymakers in central Europe in the late 18th century.³⁴

What this indicates is that the institutional environment in Europe had changed by this point. And that this change was at the level of the entire European state-system. After 1789 this state-system was shaken to its foundations by the French Revolution. But even after the defeat of Napoleon in 1815, attempts to rebuild the old tight alliance between religion and state were unsuccessful. It is true that Jews in several communities that had been emancipated under French rule were returned

³³Rose notes that while Dohm is often taken for a liberal his views were only an expression of his fundamental principle of *raison d'état*. For Dohm, all rights exist at the discretion of the state. There is no axiom or principle in Dohm that Jews have by right exactly the same rights as other Germans – only the quite different proposal that in a prudent state a class of useful Jews should be made equal with German Christians (Rose, 1990, pp. 73–74).

³⁴See the discussion in Johnson and Koyama (2019, pp. 184–197).

to the ghetto after 1815. But this phenomenon was short-lived and within a few decades, Jewish emancipation had spread across central Europe.³⁵

Similarly, attempts to bring back sacral elements of monarchy failed.

For instance, the ‘royal touch’ the practice whereby the French king was thought to heal scrofula which had been in decline for a century or more was revived at the coronation of Charles X (r. 1824–1830) but abandoned soon after.³⁶ The old equilibrium based on church and state was simply incongruent with the economic and political realities of 19th century Europe.

The crisis of church and state in 19th century Britain

To illustrate this incongruence consider the decisive breakdown in church–state relations that occurred in 19th century Britain. Between 1688 and 1832, Britain was governed by an oligarchy in which landed and (to a lesser degree) mercantile interests dominated.³⁷ The British state was extremely successful during for much of this period, winning a series of wars against France despite the loss of North America.³⁸ But it was also viewed as corrupt and unrepresentative of the population. And as industrialisation began to get underway, the state struggled to provide basic public goods (Koyama, 2014).

The old order in Britain survived the upheavals of the French Revolution. But by the 1820s, it was evident that its constitution was struggling to provide order in a rapidly industrialising and urbanising society. Only a small fraction of the population could vote; their representation across the country was uneven and Parliament remained dominated by landed interests.

Many scholars have studied how this system was reformed and democracy was gradually introduced into Britain. Popular explanations for the First Reform Act of 1832, for instance, stress economic and political factors, most notably the threat of

³⁵Jews were expelled from Bremen and Lübeck in 1816. Frankfurt, Hamburg, Hanover, Nassau. and other territories reinstated settlement regulations in the aftermath of the defeat of Napoleon (Jersch-Wenzel, 1997, p. 29). For an analysis of the consequences of Jewish emancipation see Carvalho and Koyama (2016); Carvalho *et al.* (2017).

³⁶Commenting on this attempt to heal the sick, Marc Bloch (1973, p. 228) observed that ‘[n]othing makes us feel the final decline of the ancient monarchical religion more acutely than this last tentative effort, with its timid approach and its lukewarm reception, to restore to royalty the former lustre of the miraculous healing’.

³⁷Mokyr and Nye refer to an ‘alliance of Big Land and Big Commerce’ (Mokyr and Nye, 2007, p. 54).

³⁸The ‘the eighteenth-century British state was first and foremost a war machine that met with great success in a series of enormous struggles with the Bourbons’ (Harling and Mandler, 1993, p. 47).

revolution from below (Acemoglu and Robinson, 2006).³⁹ These accounts do not mention religion.

But a number of historians see the First Reform Act as part of a larger constitutional Best (1959) argued that the Repeal of the Test Act, Catholic emancipation and the First Reform Act should be called the Constitutional Revolution of 1828–1832. Together, these reforms enabled non-conforming Protestants to come to political prominence and thus displaced the legally enshrined dominant position of the Anglican Church thereby marking a major constitutional shift. As the ‘Reformation had bound Church to State’, Bennett writes, so:

‘the constitution was equally a civil and a religious one. To admit Catholics to Parliament and public office seemed to many to undo the constitutional arrangements established by Henry VIII and Elizabeth and reconfirmed in 1688’ (Bennett, 1969, p. 285).

The Anglican establishment was inseparable from what contemporary critics termed ‘old corruption’. This referred to the widespread rent-seeking, office selling, and patronage that characterised the 18th and early 19th-century British state (Haring, 1996). Old corruption was characterised by ‘the highly unequal emoluments paid in respect of similar services (as with varying salaries paid to Church of England clergymen, especially bishops), the enormous feeds earned by many office-holders, especially those in the legal world, the near-universality of nepotism and patronage among aristocratic families, particularly those with links to the Tory party’ (Rubinstein, 1983, pp. 57–58).⁴⁰

Church and state were thus bound together – the Anglican church was a pillar of a political order that represented landed elites.

“The Protestant ascendancy was part of the Constitution: one might say without it the Constitution would never have existed. The Coronation Oath pledged the monarch to maintain the Protestant religion as by law established, while the Act of Settlement ensured a Protestant succession. Both the landed gentry and the commercial classes – as well as the urban mob – believed that if the Protestant

³⁹The threat of revolution was certainly important and empirical evidence linking the swing riots to the First Reform Act is provided by Aidt and Franck (2015).

⁴⁰Rubinstein found that 10% of British ‘half-millionaires’ and 23% of those with fortunes between £150,000 and £500,000 between 1809 and 1829 were engaged in government-related activities such as public administration, the army, or the law (Rubinstein, 1983, pp. 55–56).

ascendancy went the gates were open to unimaginable horrors.” (Derry, 1963, p. 95)

To these contemporaries, then, Catholic emancipation challenged the foundations of the British state. And, as feared by arch-conservatives and by the churchmen, the crisis that followed it *did* lead to dramatic, if gradual, changes in the nature of the British state.

In the following decades, Jews were admitted to Parliament, the franchise expanded, a competitive civil service examine replaced the previous system of patronage, and the universities were gradually secularised – Oxford lifted its religious test in 1854 and in 1874 universities were prohibited from preventing Catholics, non-conformists, or non-Christians from taking up academic positions. After 1870 it became possible for those unwilling to swear on religious texts to give evidence in court. The Bradlaugh-Besant trial of 1877 which saw Charles Bradlaugh and Annie Besant go on trial for advocating contraception – was a landmark in both the history of free speech and in the history of the demographic transition (Beach and Hanlon, 2020). The first open atheist was elected to Parliament in 1880, though only allowed to take his seat in 1888. Gradually, and through a process of self-reinforcing institutional change, modern Britain became liberal.

Concluding Comments

The institutional foundations of religious freedom, as opposed to the intellectual argument for religious freedom, have been relatively neglected. This neglect has remained a source of confusion. The comparative success of liberal societies, and hence the ability to transplant liberalism, at a relatively low cost, has been misattributed to the appeal of liberal values. A closer look at the historical records reveals that something more involved and complex was at work.

There was a great institutional transition between the premodern world and liberal societies in the modern West. Butterfield was correct to argue that

“Those who are interested in the way in which liberty came to emerge will find themselves safeguarded against certain types of error if they will keep in mind that they are looking at the actions and purposes of men as these appear in retrospect – they are making their observations from the hither side of a great transition.” (Butterfield, 1977, p. 574)

In this paper, I have built on this insight to argue this ‘great transition’ should be viewed as an institutional shift. It can be characterised as a move away from identity rules to general rules.

Many of the important arguments for religious pluralism and freedom were made centuries before the emergence of societies is usually deemed religiously free. Such arguments were made by Quintus Aurelius Symmachus in the 4th century, Pawel Wlodkowic in the 15th century and Sebastian Castellio in the 16th century. These arguments would be made more systematically, and perhaps more compellingly, by Bayle, Locke and Voltaire in the 17th and 18th century, but what is striking is that faintness of the impression made by calls for toleration, pluralism, or religious freedom centuries prior to the 17th century.

The key historical actors who historians have pinpointed as responsible for important movements towards greater religious freedom did not envision a liberal society as a likely or desirable outcome. Henri IV, who was responsible for the Edict of Nantes, believed that it would be possible to reunite Protestants and Catholics under a reformed Catholic church. Oliver Cromwell granted Jews the right to settle in England (less hemmed by, though far from being entirely free from, the discriminatory laws that existed in continental Europe), but he wanted to make England a godly Republic and many of puritan supporters believed that granting Jews the right to live in England was a necessary first step towards converting them.

Ideational accounts of the rise modern liberalism continue to have force and considerable appeal. Siedentop (2014) traces the idea of the individual to early Christianity and the assertions of moral equality and universalism found in the writings of the Apostle Paul. It was through these ideas and arguments, in Siedentop's retelling that the Church broke the hold of the extended family and made possible the rise of liberalism. Hill (2020) similarly argues that belief in human equality had to be instantiated before the transition to liberal or open access institutions could occur. And a series of books (McCloskey, 2006, 2010, 2016) have made the case for a change in value systems, associated with a change in rhetoric, as the driving force of modern economic growth. Fully disentangling institutional and ideational-based explanations may be impossible. The most compelling arguments are those documenting how the intellectual and cultural climate of early modern Europe changed to integrate (rather than rejecting) institutional factors (see Mokyr, 2016). In this spirit, the argument of this paper and of Johnson and Koyama (2019) is that any credible argument should recognise and seek to explain the institutional shift that occurred in Europe between 1500 and 1800.

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