

# **Churches as firms: an exploration of regulatory similarities**

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## **Abstract**

Regulatory states manage religious activity within their jurisdiction in the same way they manage economic activity, in an alignment pattern that reflects institutionally embedded processes. Relying on regulatory institutional options to trace consistencies in the way a regime manages economic and religious activity, the article develops and tests theoretical accounts of the presence and content – in terms of comparative variation – of this alignment. The empirical setting, primarily OECD countries in recent decades, allows us to reverse a conventional causal view and treat religious regulation as causally embedded in the logic and practice of economic regulation. If reliance on regulation as a means of social control is bound by the same processes across domains, this may even suggest the existence of national cross-sectoral models of coordinating competition. The study elaborates a broad conceptualisation of regulatory governance with potentially wide applicability.

**Key words:** religion; regulatory state; regulation; competition

**JEL classification:** Z12; H1; P5

## 1. Introduction

The persistence of religious beliefs and institutions in modernity has led to discussions of a post-secular age, in which democratic states face a delicate challenge in managing religious diversity (Habermas, 2006). In this context cross-country variation in government efforts to manage religion by placing restrictions on religious activity remains a popular research question (Fetzer and Soper, 2005; Buckley and Mantilla, 2013; Fox, 2015; Sarkissian, 2015). To understand this variation among developed countries we explore an overlooked phenomenon – the alignment of regulatory practices in the religious and economic domains.

The study has two objectives, a conceptual and an empirical one. First, we rely on the concept of regulation as social control (Clarke, 2000) to suggest that the institutional options available to governments for controlling competition around socially relevant activities, religious or otherwise, do not conform to normatively driven abstractions of *laissez faire* versus central planning and ownership. The specific point of departure in our theoretical investigation is the institutional framework of regulatory enforcement, which envisages a spectrum of context-dependent options available to a community as a means of social control (Djankov *et al.*, 2003; Glaeser and Shleifer, 2003). This allows us to treat institutional options for regulating competition across different social sectors as parts of the same repertoire of practices, and to understand convergence towards the regulatory-state option across these sectors.

The proposition of similarities between economic and religious regulatory practices is causal. It suggests that the latter are becoming embedded in and shaped by the former; or that cross-country variation in religious regulatory governance can be explained by cross-country variation in economic regulatory governance. We acknowledge the inverse, more established view that religious forces embed and shape economic activities in the long run (e.g. Esping-Andersen, 1990). Yet, we are interested in a recent type of modern state, the regulatory state (Majone, 1997; Moran, 2002; Levi-Faur, 2014), which has risen across the advanced capitalist world during the same period that economic theoretical assumptions and terms have come to dominate government approaches to the management of social life (Markoff and Montecinos, 1993; Mudge, 2008; Gauthier *et al.*, 2013; Hurd, 2015). The dominance of economic theoretical schemas or ‘scripts’ – cost, efficiency, rent, incentive, choice, user, supply, demand, competition, monopoly, externality – originally designed for and applied to economic activity, facilitates the development of standardised frameworks across regulatory

sectors regardless of framework performance and applicability (DiMaggio and Powell, 1983; Jessop, 2001). This context allows us to investigate the hitherto overlooked possibility of a multifaceted causal process in which economic governance, nowadays typically deployed by the regulatory state, serves as a model that embeds religious governance.

Our second, empirical aim is to assess this possibility with a comparative test of the relationship between the extent of state control over economic activity and the extent of state control over religious activity in a group of Organisation for Economic Co-operation and Development (OECD) member and partner countries. Exposed to the dominance of economic theoretical schemas, these societies serve as a most-likely context for observing the alignment of religious regulatory governance on the basis of economic regulatory governance. We contrast empirically this proposition with two other key potential explanations of this alignment: the historical origin of a country's laws (La Porta *et al.*, 2008), and the rise of the European Union (EU) regulatory state as a consequence of the creation of the single market (Majone, 1997). We examine the dynamics that underlie our causal claims by supplementing quantitative information with more detailed case studies.

Our ultimate goal is to bring attention to the possible existence of a broader national style of governing socially relevant activities (see also Dobbin, 1994). Instead of considering typologies of national economies and religion-state arrangements separately, we put forward a parsimonious discussion of how contemporary regulatory patterns across social domains relate to institutionally embedded influences (cf. Hall and Soskice, 2001). The approach can be extended to other types of activity, such as the regulation of political parties by the state, in an attempt to bring together disparate research agendas under a broader examination of the encompassing nature of the regulatory state.

Has this argument regarding the embeddedness of religious regulation in economic regulation been addressed systematically by previous work? Despite academic emphasis on religious regulation as a market phenomenon, or the usefulness of economic regulation theory as an alternative for understanding religious regulation, or the institutionalisation of economic 'scripts' in modern governance, comparative studies have overlooked the diffusion of economic theories as an explanation of why states regulate religious affairs to the extent they do. We highlight further the originality of our application of regulatory governance propositions by noting that existing comparative accounts of why governments respect or constrain religious activity draw on processes such as national identity, modernisation and

democratisation, state effectiveness, regime stability, church-state arrangements, communist political legacies, and religious demographics (see examples in Fetzer and Soper, 2005; Koenig, 2007; Gill, 2008; Buckley and Mantilla, 2013; Fox, 2015; Sarkissian, 2015).

The remainder of the paper is structured as follows. Section 2 reviews critically a dominant conceptualisation of religious regulation options and its normative, dichotomous distinction between the extreme positions of freedom of competition and state intervention. The section then develops a discussion of intermediate options available to societies for the management of socially valued activities. This accounts more accurately for the reality of variation in social control practices, nowadays employed by a regulatory state that aims to promote market efficiency through competition, while, at the same time, protecting consumers from the adverse effects of competition. The discussion establishes meaningful parallels between economic and religious regulation. Section 3 explains why these parallels can be observed empirically as an alignment of similar economic and religious regulatory practices. It looks at the rise of a particular governance style that anticipates regulatory alignment across sectors of social activity (consistently light, moderate or heavy practices across regulatory domains), followed by a discussion of potentially confounding factors in this regulatory alignment. Section 4 presents the empirical set-up and findings, which we interpret as evidence that business regulation acts as a model for religious regulation in the countries and period examined. The conclusion discusses qualifications and implications, and sets up the directions of a broader research agenda.

## **2. Religious ‘markets’ and the regulatory state**

This section examines two key theoretical frameworks that look at how societies control competition within socially relevant activities. It contrasts the dichotomous abstractions of the economics of religion or rational choice approach to religion (Iannaccone, 1998; Finke and Stark, 1998) with a more realistic range of arguments that draw on regulation theory, which elaborate on the contextually embedded institutional options available to governments for the control of competition.

The rational choice approach conceptualises religious activity as a market phenomenon. Organised religions (churches) are seen as ‘firms’ that produce spiritual commodities, as well as other socially valued goods (Iannaccone, 1998, p. 1482). The different religious denominations that operate in a given country are taken to compose a competitive field. The

relationship between denominations (supply) and their lay members (demand), and that between denominations and the state compose a market mechanism. The economics of religion infers that the structure of the market mechanism centres on the distinction between state-sponsored religious monopolies (one religious option available to the public – or no religion available at all – and enforced by the state) and fully open or competitive religious markets (denominations compete freely for members).

Reflecting its intellectual pedigree the economic theory of religion treats arrangements other than unfettered religious competition (religious ‘freedom’, ‘liberty’, pluralism, choice or deregulation) as negative developments. *Laissez faire* is seen as a force that promotes competition among denominations, and, thus, revitalises religion by increasing customers-adherents. Similarly to the public choice perspective (Stigler, 1971; Posner, 1974), state intervention is cast in a negative light by being treated, for example, as a problem of capture (as in the case of inefficient religious monopolies operating in the form of a state-subsidised national church). Similarly to public choice theory (Carpenter and Moss, 2013), these expectations are universalistic in nature, and apply across societies and cultures. Research in this tradition has mostly focused on assessing the impact of state intervention on population religiosity levels, although the foundational assumptions of the approach have generated substantial critique (Bruce, 1999; Hurd, 2015).

Contrary to dichotomous representations of governance (either through state monopoly or through perfect competition) recent theoretical contributions by regulation scholars centre on the quality and ability of institutions to enforce social control over economic activities. On the one hand, public authorities have to secure individual (property) rights from disorder; on the other hand, they have to avoid abusing their own intervention. Emphasis is placed on the existence of intermediate institutional arrangements that lie between the two extreme options of state ownership and unrestricted competition. The focus on the efficiency of enforcement alternatives explains the rise of the regulatory state, a third institutional option that is appropriate in the economic context of high-level commercialisation and industrialisation, such as the one that emerged in the United States at the beginning of the previous century (Glaeser and Shleifer, 2003, p. 402). Another intermediate option is litigation and contract enforcement through courts. So, ranked in terms of decreasing state interference this theoretical perspective establishes four institutional options: state ownership; regulation of

competition; private litigation, mainly through courts; and private orderings, such as self-regulation of firms.

Although these four enforcement strategies of social control are not mutually exclusive, such categories have ‘the advantage of following closely the historical discussion of the proper role of the government’ (Shleifer, 2005, p. 442). Indeed, this institutional regulation theory and spectrum of options does not only capture the rise of the American regulatory state as a response to the failure of courts and private litigation mechanisms in controlling private disorder and exploitation by large corporations (Glaeser and Shleifer, 2003). It also traces the more recent shift from the interventionist to the regulatory state in Europe as the result of a wave of privatisation and economic deregulation (Majone, 1997).

The analytical classification takes into account various historical and contextual conditions that differentiate societies in the application of efficient controls over the production of services and goods (Djankov *et al.*, 2003). Even though countries may adopt the same institutional option, such as the regulatory state, for controlling a specific market there will still be variation in style (see also Dobbin, 1994). All in all, the theory of regulatory enforcement allows us to adopt the view that government intervention in religion ‘is not an on/off proposition...but rather a complex and multi-layered set of institutional arrangements’ (Buckley and Mantilla, 2013, p. 332).

The following illustration shows the usefulness of the analytical categories of regulatory enforcement theory. We demonstrate that these alternative logics of organising economic production are remarkably similar to the options available to societies for the management of religious activity in order to strike a balance between market efficiency through competition, and, at the same time, consumer protection from the adverse effects of competition (Haber, 2016; Eckert, 2017). First, the state can exercise control by being the exclusive producer and supplier of a service; for example, in the form of network utilities or a state enforced religion. The market mechanism does not apply in this case as there is no legal private sector and customers have no choice among religious denominations. A state can officially designate a church, appoint clergy and pay for their salaries, become involved in questions of doctrine, and set up general ownership by closely monitoring religious activities. Although this was the European experience in past centuries, the Maldives is a contemporary example of this type of regime, where the government requires citizens to practice only one religion.

In a second alternative, typical of economically and institutionally developed countries, the state can introduce a degree of choice and competition, but may still police market entry, the quality, as well as the extent of the output of religious denominations. Government regulation is a very common strategy of enforcing 'good' conduct among religious denominations. Through bureaucratic agencies and enforcers the state can approve some religious denominations but not others, as well as subsidise denominations in the provision of religious observance, education and various charitable activities. Most European countries have moved to this type of regime, the regulatory state, although the extent of regulatory intensity ranges across countries depending on history and context. For example, there is a varying degree of difficulty to which new 'firms' (e.g. the Church of Scientology) can enter national religious markets. The public interest concept of market failure is invoked frequently by public agencies to justify intervention in religious affairs. The state is often seen as responsible for screening out religious movements that are considered harmful to the population in spiritual, physical, financial or national security terms.

Third, the state may allow religious firms to compete against each other free from the control of bureaucratic agencies. However, control over religious activities, particularly those that can potentially harm members, may be exercised through litigation – judicial enforcement, contractual obligation breaches and tort liability. Religious service providers may be disciplined by contracts between private parties, which are enforced through legal channels. Courts may treat denominations as regular employers and impose liability for employee misconduct against clients. In the US case the application of legal doctrines of negligent hiring and supervision to church leaders has provided relief to victims of sexual exploitation by clergy (Wilbourn, 1996; Clark *et al.*, 2006). Besides resolving private litigation, the judiciary has become increasingly active in the US in balancing the extent of contrasting rights and freedoms.

The final institutional option of private orderings refers to competition among self-regulated religious denominations without control exercised by public authorities. For instance, legal scholars have suggested that denominations in the United States need to develop internal policies and procedures to avoid any risk of harm to members (de la Houssaye, 1993; O'Reilly and Strasser, 1995). As the example cited in the previous paragraph suggests, fully free markets that are able to self-police without external

intervention can be considered ideal typical even when referring to the proverbially ‘free’ American religious market.

This theoretical framework of institutional possibilities of social control over competition suggests that the extent of regulatory control over business is an essential standpoint that may help us to understand actual variation in states’ disposition towards religious competition. Based on regulatory governance arguments the framework contradicts rational choice propositions regarding the one-size-fits-all superiority of unconstrained market competition. In this regulatory perspective, as secular markets and government intervention are intertwined in the regulatory state in developed economies, the same can apply to religious markets and the regulation of religious activity. The convergence of most developed countries towards intermediate institutional solutions for governing religion from past extreme positions of *laissez faire* (as in the case of the US) and state religion (as in the case of European countries) may mirror similar trends in the social control of economic activities.

### **3. From business regulation to religious regulation**

Having looked at the various economic governance options available to public agencies, their analogies to religious governance options, and the prevalence of the regulatory state as a common intermediate institutional solution for the control of both economic and religious competition, we turn to explanations of the apparent alignment between economic and religious regulation patterns. We argue that variation in economic regulatory activity anticipates variation in religious regulatory activity. We expect a positive relationship in which stricter (lighter) intervention by the regulatory state in monitoring firms leads to consistently stricter (lighter) regulatory intervention in monitoring denominations.

#### *3.1 The ‘society as economy’ logic*

This section elaborates on the ways in which economic understandings of social activity can produce an alignment of economic and non-economic regulatory practices, with the former serving as a model for the latter. The modelling of the religious regulatory state on the basis of the economic regulatory state stems from a broader institutionalisation of ideologies and reforms that foster competition as a superior form of social organisation - ‘a simple solution to complex problems’ (Jessop, 2015, p. 167). These reforms aim to solve state-failure related problems, but also offer a repertoire of routines and practices to monitor and boost



competition by expanding rules for consumer protection through depoliticised regulators (Mudge, 2008, p. 718; Jordana and Levi-Faur, 2004; Schneiberg and Bartley, 2008).

How do these reforms, first developed for and applied to economic activity, flow to the domain of non-economic (e.g. religious) regulation? A closer look at the present study's time frame and geographical context is essential. Specifically, the global professionalisation of economics has allowed the political rise and institutionalisation of economics expertise and terminology across the more industrialised countries (Markoff and Montecinos, 1993; Henisz *et al.*, 2005; Fourcade, 2006; Mudge, 2008; Simmons *et al.*, 2008). The dominance that economists and their general abstractions of human behaviour have attained in the organisation of social life does not refer merely to the geographical spread and application of new political economy models. It also involves the reframing of 'the social sphere as a form of economic field', whereby the market is transformed from being embedded in to actually embed political and other aspects of social life (Gauthier *et al.*, 2013, p. 13; Sullivan *et al.*, 2015). Granted the modern tendency to evaluate social events from an economic perspective the influence of 'profit-and-loss' calculations is anticipated even in non-commercial domains, which are not integrated formally into the market economy (Jessop, 2001, pp. 219–220).

The legitimating function of economic theoretical paradigms in governance since the 1970s and 1980s, along with the language that accompanies them, has a well-documented trajectory (Strang and Meyer, 1993; Campbell and Pedersen, 2001; Fourcade, 2006; Mudge, 2008). The spread of economic theoretical schemas into non-economic governance has been driven by expert communities and international organisations, such as the OECD, the EU, the International Monetary Fund, and the World Bank, and by the worldwide rise of Western-trained economists in top government posts. These epistemic communities and networks promote across different public agencies a universalistic understanding of social actors as abstract a-historical entities responding to opportunity and incentive structures, and of the state as competition regulator rather than as service owner, provider or abstract representative of the common will.

The application of 'scripts' from the economic to other domains as a function of the rise of the regulatory state and the accompanying logic of understanding social phenomena in economic terms can be linked to various motivations (DiMaggio and Powell, 1983; Dobbin, 1994; Hall and Soskice, 2001; Beckert, 2010). These cover concerns about operational performance and output growth (regulators choose a solution that they consider already

proven efficient in the ‘master’ domain of economics); about external legitimacy (a solution that makes regulators look good, because that is what economists do); and, even, about avoiding the costs involved in having to set up entirely new institutional regimes (a quick solution that can be copied and pasted from the ‘master’ domain).

Examples of this trend abound. Consider the general role of economic advisers in formerly communist countries since 1989, where cost-benefit analyses even influenced state dissolution, as in the case of Czechoslovakia (Markoff and Montecinos, 1993, pp. 39–40). With relevance to religion we have already touched upon the use of neoclassical economic theory in the academic study of religious regulation since the 1990s. Some legal scholars have also argued that arguments in favour of special protection made by dominant religions appear to resemble arguments in favour of special treatment made by industrial monopolies (Baradaran-Robison *et al.*, 2005). In the policy world political scientists have observed that contemporary governments treat churches not very unlike other types of organised interest groups; that is, as actors that ‘compete for resources and regulatory sympathy’ (Francis, 1992, pp. 803–804). The case studies presented in the results section provide detailed evidence of the generalised transition of religious governance towards the regulatory state as primarily driven by developments in economic governance.

### *3.2 Confounding factors*

The literature cited so far describes why models of economic coordination may have come to shape patterns of non-economic coordination, often leading to a regulatory alignment in the two domains. This section now looks at alternative explanations that may confound the hypothesised causal link between economic regulation and religious regulation. We turn to two key determinants of how the societies of interest have arrived to their current economic management styles: legal origin and the European single market.

The pervasive influence of legal tradition has a pivotal role in the institutional theory of regulatory enforcement (La Porta *et al.*, 1999, 2008; Djankov *et al.*, 2003). The less interventionist (English) common law order and the more interventionist (French) civil law order represent two broad tendencies of social control over economic activities, each one prioritising a different balance in the mix of private initiative and centralised planning. The two cultures of commercial law trace their origins in the High Middle Ages, and were transplanted to other countries mainly through European conquest and colonisation. The

German and Scandinavian legal systems, along with communist or post-communist traditions, can be considered sub-cases of an interventionist legal culture.

The historical origin of a country's commercial legislation, one of the most relevant influences on the extent to which a society protects private interests, may shape regulatory activity in the economic and religious domains by providing a general template for the organisation and legitimation of social control. Although the regulatory state is the common institutional solution for contemporary states nowadays, English (French) legal origin countries will be more (less) willing to prioritise private firms' freedom over regulatory intervention as a means of social control. It is likely, therefore, that any observed covariation between economic coordination and religious regulation is not a function of the hypothesised embeddedness, but merely a reflection of this historical background.

As a second alternative explanation of cross-country variation in models of social control, EU membership has constrained the domestic legal orders of member states in the direction of more liberal market competition policies since the 1950s, and the Treaties of Paris and Rome (Mudge, 2008). The creation of a single market and the institutionalisation of a supranational legal system were mutually reinforcing (Fligstein and Stone Sweet, 2002), with legal questions concerning the single market spilling over into other policy domains (Koenig, 2007, p. 915). Certainly, Europeanisation has also been associated with high degrees of political ambiguity and uncertainty, which can lead to the voluntary imitation of successful or legitimate institutional solutions (Lodge, 2000; Radaelli, 2000). Finally, by sharing a common understanding of the rules that safeguard a market economy and individual rights, epistemic communities may provide a "common European model" of religious governance' (Koenig, 2007, p. 925). It is likely, again, that the anticipated covariation between economic coordination and religious regulation is simply a reflection of the Europeanisation of religious governance. The empirical tests that follow evaluate these propositions.

#### **4. Methodology and data**

We study jointly the regulatory patterns encountered in the economic and religious domains of particular states by applying insights from regulation theory. We are interested in the role of economic regulation in shaping the content of non-economic (religious) regulation arrangements, a role that is plausible under the spread of economic theoretical understandings

of society (mostly OECD countries in recent decades).

More specifically, to explain the alignment (consistency) of regulatory practices in the two domains across the states examined we theorise that lighter (heavier) business regulation regimes lead to the emergence of lighter (heavier) religious regulation regimes. Our models test whether the extent of business regulation has the expected (positive) influence on the extent of religious regulation net of the influence of two key confounding factors - legal origin and Europeanisation. The basic specification is as follows:

$$\begin{aligned} \text{Religious regulation} = & B_1 (\text{legal origin}) + B_2 (\text{Europeanisation}) \\ & + B_3 (\text{business regulation}) \\ & + [\text{Controls}] \end{aligned}$$

We anticipate  $B_3 > 0$  or that heavier business regulation leads to heavier religious regulation. Legal origin is measured with information from La Porta and colleagues (1999, 2008), recoded as a dichotomous variable that differentiates between (English) common law, which is considered more liberal – that is, more restrictive of the state’s role in competition – and all gradations of interventionist legal origin (French, German, Scandinavian, and Socialist). We use EU membership status as an indicator of Europeanisation. The analysis controls for logged GDP per capita, recent democratic transitions (Ulfelder, 2012), and religious demography, that is, whether a country has a Catholic or Protestant majority, to account for the possibly confounding effects of economic, political, and religious background.

To gauge the extent of state interference in business activity, our main independent variable, we rely on a dataset developed by the OECD. Indicators of Product Market Regulation (IPMR) are compilations of best practices and rely on information collected periodically since 1998 mainly through national civil servant surveys (Conway and Nicoletti, 2006). The IPMR system measures the degree to which governments encourage competition, and is a valid instrument in the sense that it records factual information concerning specific aspects of the extent of regulatory intervention rather than perceptions of regulatory quality. To ensure consistency with the institutional choices of regulatory governance, the composite indicator that we use from the 2008 wave is the ‘mid-level state control’ over business enterprise. It documents public ownership and involvement in business activity, and covers the scope of public enterprise in a national economy, direct control over business sectors, price controls, and the degree of command/control regulation. Higher values reflect heavier

(anti-competitive) regulation. The dataset, and our analysis, refers to a group of 40 countries, including OECD member states (Chile, Estonia, Israel, and Slovenia became OECD members in 2010, having obtained accession status in 2007), and a selection of non-members that are treated as ‘emerging economies’ on their way to becoming more market oriented and investor friendly (Brazil, China, India, Indonesia, Russia, and South Africa).

Similarly to government interference in economic competition there are several measures of government intervention in religion, which aims to constrain an idealised fully unrestricted market. We use three measures of religious regulation as our dependent variable, in separate models, to measure the degree of social control of religious competition. Higher values in these measures show heavier state intervention in religious competition. The first measure comes from the Religion and State Round 2 dataset, which codifies various government activities in the field of religion for the period 1990-2008 (Fox, 2008, 2015). The data source relies on reports from government and human-rights organisations, media sources from the Lexis/Nexis database and academic resources. Information for each country is compiled by coders, and then quantified with the use of a codesheet that defines the various variables. The specific measure used here is a composite indicator of the extent of state regulation of all religions or the majority religion, and attempts to capture the official disposition towards organised religious activity in general (‘Religious Regulation’ variable, *NX2008*, 2008 measurement). The index assigns a summary score to each country, which adds up the extent of government control and monitoring over a range of activities by religious organisations and their members, including religious political parties, civil associations affiliated with a religion, public religious speech, access to places of worship and the like.

The second measure, again part of the Religion and State Round 2 dataset, is a similar typology of government imposed restrictions on the activity of some (typically minority) religions in particular (‘Official Restrictions’ variable, *SCX2008*, 2008 measurement). The indicator produces a continuum of options with the following five possibilities: 0) no (other) religions are illegal and there are no significant restrictions on minority religions; 1) no religions are illegal and no limitations are placed on them but some religions have benefits not given to others; 2) no religions are illegal but some or all (other) religions face practical limitations; 3) no (other) religions are illegal but some or all (other) religions face legal limitations; 4) some (other) religions or atheism are illegal; and 5) all (other) religions are illegal, although this category does not apply to our sample of countries.

Our third measure is a composite variable that arranges states based on their disposition to religious competition ('Government Regulation of Religion' index, *GRI0308*). The indicator comes from Grim and Finke's International Religious Freedom Data, a project that quantifies US State Department International Religious Freedom Reports (Grim and Finke, 2006, aggregate file 2003-2008). The original reports are based on expert country evaluations of religious freedom composed by State Department personnel. The reports have been quantified with the use of a survey questionnaire completed by coders who have read the State Department reports. Country scores in this specific index reflect whether governments apply legislation that restricts missionary activity, proselytising, and public expressions of religion. The index also documents whether the state respects religious freedom in general. As the USA is not covered by these reports we imputed the lowest possible score ('0' for no regulation) for this country. Tables 1 and 2 present sources and key statistics for all the variables included in the main test and in the alternative tests that can be found in the Online Appendix. The actual values of the 40 countries in our sample on the main variables are presented in Appendix A.

[Tables 1 & 2 about here]

A final note of caution is warranted. Although the datasets we analyse contain repeated measurements of the religious indicators of interest over time (one or two decades), these indicators do not vary adequately. Therefore, it is difficult to examine the dynamics of the phenomenon from a quantitative perspective, and to establish causal sequence in a more robust fashion. The various case studies that complement the statistical analysis aim to describe those dynamics.

## **5. Results**

Existing approaches to religious regulation categorise the USA as an accommodationist regulatory regime, which enforces the official separation between denominations and a state that is benevolent and less restrictive towards religion (Fox, 2008). Switzerland is an example of cooperation, where the state does not formally favour a particular church, but certain churches enjoy greater support (Fox, 2008). Turkey is seen as an example of assertive secularism (Kuru, 2009), at least until the recent rise of political Islam. Unlike the more

passive version of official secularism that applies to countries like the USA, assertive secularism actively opposes the public presence of religion (see also Fetzer and Soper, 2005).

We argue that this reading remains overly preoccupied with state behaviour in the religious domain as if it were separate from state behaviour in other domains. The positive relationship between business regulation and religious regulation in Figures 1 to 3 suggests the need for a simultaneous focus on state conduct in the two domains. According to the three figures governments that exercise heavier (lighter) control over businesses activity also tend to exercise heavier (lighter) control over the religious economy, with a group of countries, including various European ones, clustering in the relatively moderate range of the two regulatory axes. The jointly lightest patterns are typical of the Anglosphere (bottom left), while the jointly heaviest arrangements are mostly found in non-English speaking countries outside of Europe (top right). Therefore, the position of countries high or low on the diagonal line of regulatory alignment is meaningful in legal-cultural and/or EU-membership terms, which are the main confounding variables in our case. A comparison of the relative positions of the USA, Switzerland and Turkey in the three figures is illustrative.

[Figures 1-3 about here]

We will now attempt to disentangle the contribution of business regulation to this alignment in our OECD sample independently of the influences of legal origin and Europeanisation. The estimates for the three models in Table 3 suggest that, whereas Europeanisation does not have any effect on religious regulation, the effect of a common-law tradition on the extent of religious regulation is negative. The less interventionist, common-law contexts (English) are more likely to lead to the development of lighter regulatory tendencies in the religious domain. More importantly for our argument, the extent of business regulation has a significant positive effect on religious regulation confirming that the two types of regulation are indeed connected. For example, a one-point increase in the business regulation scale in model 1 would result almost in a six-point increase (5.78) in the religious regulation scale; an increase that, according to column 3 in Appendix A, separates countries such as Canada from Greece, or Norway from France. In relative terms, business regulation exerts its strongest effect in model 3 (its standardised effect, which ignores each variable's original metric, is .37, .46, and .49 in models 1, 2 and 3 respectively). The effect of business

regulation is also consistently larger than the effect of legal origin (the latter's standardised effect is -.31, -.38, and -.16 in models 1, 2 and 3 respectively). We interpret this result as an overlooked explanation of the consistently lighter or heavier national regimes of business and religious regulation documented in Figures 1 to 3, an explanation that is additional to important background processes such as legal origin, or to the other systemic features accounted for by the models.

[Table 3 about here]

In different specifications presented in Table 4 we used the presence of established religions (based on the *SAX2008* variable, Religion and State Round 2 dataset) as the religious background control to address the possibility that states with constitutionally established churches tend to regulate religion more heavily (column I across models). We also used the extent of religious fractionalisation (Alesina *et al.*, 2003) as another religious background control to address the possibility that religiously heterogeneous societies find it more costly to regulate religion (column II across models). The inclusion of these two alternative control variables produced results that did not affect the main relationship and the relative strength of the main effects. However, we note a possibility that complicates inference – religious fractionalisation may be endogenous to legal tradition and even to economic regulation. For example, more competitive economies attract more (diverse) immigration. In any case, the robustness of the main relationship between economic and religious regulation after controlling for these alternative religious background variables is another indication that religious regulation is not simply an efficient and rational response of the state to constitutional matters or to demographic forces based on cost-benefit calculations (cf. Dobbin, 1994). The institutionalisation of economic theoretical approaches, first practised in the economic domain, across regulatory sectors is a distinct possibility.

[Table 4 about here]

### 5.1 *Additional tests*

We assessed the technical robustness of the relationships presented in Table 3 with further specifications. As Appendix A shows there are some obvious outliers in two of the dependent



variables (e.g. China). For this reason we used two alternative dependent variables in the form of logged versions of the dependent variables used in models 1 and 3 in Table 3 (see Table A1, Online Appendix). The relationships described in the main test in Table 3 are robust to this alternative test. The presence of outliers, coupled with the small number of cases, also makes it likely that individual countries may bias results by being too influential. Cook's distances suggest a potential problem with China in model 1 (the distance is 0.9). We re-estimated model 1 by excluding China from the analysis (see results in Table A2, Online Appendix). The main relationship in Table 3 remains insensitive to this alternative test.

We added controls for the distinctiveness of Socialist legal origin as an intense variation of interventionism (La Porta *et al.* 1999, p. 231), and for government effectiveness using World Bank Governance Indicators (Buckley and Mantilla, 2013) (Tables A3-A4, Online Appendix). The relationship of interest in Table 3 remained robust to the addition of the above regressors. The effect of business regulation, the primary application of economic theoretical thinking in governance, persists on top of the other explanations of why different states regulate religion to the extent they do.

Finally, we re-estimated the models in Table 3 by adding a dichotomous variable for OECD membership in 2008 (Table A5, Online Appendix). This was used as a proxy of exposure to 'neoliberal' norms (Swank, 2006). Its effect is substantively and statistically trivial in all models, and does not alter the main relationship presented in Table 3. We also tested for the moderating influence of OECD membership on the effect of business regulation on religious regulation, anticipating a stronger, positive effect among member countries only. This, again, did not alter the main picture established in Table 3.

## 5.2 *Tracing regulatory dynamics*

The cross-sectional data presented so far cannot describe adequately the dynamics of the embeddedness of religion governance into economic governance; especially any consistent, sequential changes over time in the two types of regulation in this group of cases. The qualitative assessment of selected countries that follows will clarify longitudinal trends by establishing whether changes in economic regulatory arrangements actually precede similar changes in religious regulation. To maximise variation the cases are arranged according to two relevant features – EU membership status and legal origin – with impact on the regulatory state. The section covers Sweden, Finland, Spain, and Estonia (EU members),

followed by Turkey and the United States (non-EU members), the latter also serving as the key example of English legal origin. By being diverse in political, economic, and cultural aspects these detailed descriptions illustrate instances of regulatory alignment dynamics in different national contexts. Although not representative of every possible instance the cases evidence how reform of religious governance has been promoted through economics scripts and networks of economics expertise regarding the state's role in managing competition.

An instance in which a sequential and consistent regulatory change took place in the two domains comes from Sweden. During the 1990s a major push for the privatisation of state-owned enterprises was followed by the disestablishment of the (Lutheran) Church of Sweden. The proliferation of the New Public Management (NPM) agenda, which prioritised competition and choice rather than centralised service provision, was a fundamental influence on pro-market reforms in the economic domain (Pollitt and Bouckaert, 2000). While deregulation in the religious domain can be explained in various ways – e.g. as an outcome of increased cultural heterogeneity due to immigration – NPM perspectives of the state's role in promoting competition in service delivery have been seen as a driving force in the move towards religious disestablishment and deregulation (Schenk *et al.*, 2015, p. 5).

Finland introduced similar economic reforms in the late 1980s and 1990s. These reforms were reflected in the outsourcing and privatisation of previously state-run activities to churches and other charities, and a view of the citizen as active service consumer. A clear distancing between the state and the dominant Lutheran Church took place in the 1990s, while new modes of religious governance had emerged by the 2000s. The role that welfare-services outsourcing, as a new type of economic interaction, has had on the changing relationship between the state and churches is of particular interest (Martikainen, 2013). Churches were employed by the Finnish government to achieve efficiency gains, and thus reduce public expenditure. While the state could have approached religious activity solely as a matter of minority rights, cultural defence, intercultural dialogue, family protection, or national security, the waning of state-provided services via outsourcing promoted an instrumental treatment of organised religions as 'naturally' competitive entities that distributed services, were represented primarily by ledgers and budgets, and responded to incentives (Gauthier *et al.*, 2013). The diffusion of economic schemas concerning deregulation, operational performance, and efficiency into the governance of religious

welfare provision can account for the observed alignment towards intermediate regulatory positions in the two domains in Sweden and Finland.

Spain, a traditionally Catholic nation, experienced a transformation of religious governance in the 1980s in the direction of equal treatment of denominations, and pluralistic policies towards religious diversity (Griera *et al.*, 2014). Although this change was also a function of the evolving links between the (previously authoritarian) Spanish state and the dominant religion, it has also been argued that at a time when the national government aimed to modernise and grow Spain's economy local authorities drew on models of 'entrepreneurial urban governance' to encourage foreign investment and tourism (Astor, 2014, pp. 1723-1724). City administrations such as those in Madrid, Valencia, Barcelona, and various Andalusian municipalities promoted the establishment of cathedral mosques in order to enhance their global and cosmopolitan image as part of urban development projects. In our reading, economic modernisation reforms led to similar reforms in the religious domain, contributing to the similar regulatory reaction of the state in the two domains even against potential resistance from other stakeholders. We take this as another indication of the precedence and influence of economic governance considerations over religious governance.

As a latecomer to the EU secular Estonia is one of the post-soviet countries where reforms were implemented not only for the speedy liberalisation of previously state-controlled product and service markets, but also for the subsequent establishment of freedom of religious choice and exercise (Ringvee, 2013). A transfer of ideas from the management of the market economy to the management of the religious economy was facilitated by the replacement of political and administrative personnel. Mart Laar, the country's Prime Minister in the early 1990s, described the rise of economic understandings eloquently: 'I am not an economist. I am a practical man. I had read only one book on economics. This was Milton Friedman's *Free to Choose* [...] It looked very logical to me. Hence I introduced these things' (Ringvee, 2013, p. 143). As a new state keen to distance itself from its strained past relationship with neighbouring Russia and, therefore, open to strong deregulation pressures applied by international organisations and Western governments, Estonia is a favourable ground for observing the result of diffusion as a regulatory alignment in the economic and religious domains.

A similar influence of expert networks is visible in the pro-market reforms that have been applied to Turkey's economy since the 1980s. Kemal Derviş, the Western educated

former World Bank economist and Turkish minister that later implemented an IMF-enforced reform package, summarised the reformist vision as one of ‘a more rationally structured, leaner and more effective state’ (Airaudo *et al.*, 2004, p. 18). Referring to the non-economic reforms also necessary to modernise Turkey, Derviş was clear that ‘the economy deserves priority’ (2001, p. 16). Signs of religious deregulation in the state’s disposition followed quickly, as reflected in the landslide victory of the Justice and Development Party (AKP) in 2002. As an Islamic party the AKP had experienced suppression (heavy regulation) from the military-backed laicist establishment that had dominated the Turkish Republic until that period. Yet, as the most recent developments in this country imply the sequential regulatory alignment studied here is not necessarily irreversible or unidirectional; a property that should prove useful for drawing more conclusive future insights regarding the dynamics of the phenomenon.

As a final note, the regulatory alignment documented in Figures 1 to 3 is not merely the product of a race to the bottom, where countries move away from public ownership or state control in the two domains. Convergence towards intermediate institutional solutions of social control, such as the judicialisation or regulation of competition, is not possible only from initial positions of state monopoly, but also from *laissez faire* arrangements. The United States, a pioneer of governance innovation, experienced such a move away from the private litigation of commercial disputes in business and towards stronger regulatory arrangements between the late nineteenth and early twentieth centuries. The rise of the Progressive era’s reform movement in response to market abuses, and, later on, the New Deal are instances of greater state intervention in the economic sphere. Evidence of a subsequent, similarly interventionist move in the religious sphere can be found in the American government’s increasing partiality towards a particular religious tradition (Christianity), and the incorporation of (and increased frequency of litigation surrounding) First Amendment Religion Clauses. For example, the Eisenhower presidency’s efforts to promote a Christian image of the American nation (1953–1961), an instance of increased state intervention in the religious domain, have recently been treated as a direct reaction to the greater economic interventionism of the New Deal period (Kruse, 2015). The shift can be interpreted as an early instance of economic regulation trends presaging similar developments in the religious domain, in an alignment that accounts for the similar profile of this state in terms of economic and religious governance.

## **6. Conclusion**

The study adds a fresh perspective to the scholarly debate on the regulation of religion. It employs regulatory governance arguments to understand the alignment in the way modern states manage religious and economic activities. Our interpretation of the findings is that the extent of government coordination of religious activity may be informed by economic theory as first applied in business regulation, and not, as has been assumed so far, by a narrow state response towards organised religion per se. We do not take this to mean, as the rational choice of religion approach anticipates, that activity in the religious domain necessarily operates like a market mechanism. We take this to mean, instead, that governments react to religious activity under the influence of an institutionalised economic analytical logic.

We acknowledge the limitations of the present exploration, which could generate several additional lines of enquiry. One concern is that indicators of religious regulation and business regulation are not necessarily comparable or functionally equivalent. In the absence of a measurement programme that produces standardised measures of regulatory activity across domains there is no immediate solution to this problem. Second and related, the logic that underlies religious regulation research revolves around the implicitly normative contrast between religious freedom and state intervention. Economic regulation research tends to be more nuanced as it posits an institutional possibility frontier with alternative optimal points, whose optimality depends on contextual factors.

The empirical analysis could not account for all the possible confounding variables. These include the internal dynamics of regulatory agencies, the exact motivations of regulators when adopting ‘scripts’, and the external pressures these agencies face; heterogeneous regulatory trends within federal states, and differentiation rather than alignment processes triggered by Europeanisation; and developments in less institutionally developed countries not covered by the OECD data programme. On the last point our proposition that economic regulatory responses embed religious ones in the geographical and temporal context of interest may not hold beyond this particular context. The inverse causal explanation seems more plausible regarding, for instance, the role of the medieval Catholic Church in promoting Roman law, which was the very basis of the civil-law tradition; the same organisation’s function as the centralised template for the administration of High

Medieval France; the Protestant underpinnings of German Ordoliberalism; and contemporary phenomena such as Islamic banking.

Limitations notwithstanding, the analysis sheds new light on the impact of the regulatory state in a sector of social activity (religion) that has been overlooked by regulation scholarship. The findings invite applications to activities other than the production of commercial goods and services, and, even, the treatment of different domains of social activity as parts of the same, aligned regulatory 'field'. Discovering similar regularities across different realms would permit wider generalisations regarding the institutionalisation of regulatory models.

Finally, the sequential link that seems to connect business regulation with religious regulation, and the apparent lag that separates the two phenomena, may have some predictive value. Current economic deregulation trends in countries such as China could foreshadow the accelerated deregulation of religious governance. Inversely, the hypothesised receding of the 'liberal' economic project in the West, a popularly anticipated outcome of the interaction of economic, geopolitical and technological forces in the first quarter of the twenty-first century, might be the harbinger of a, thus far, unforeseen religious re-regulation wave.

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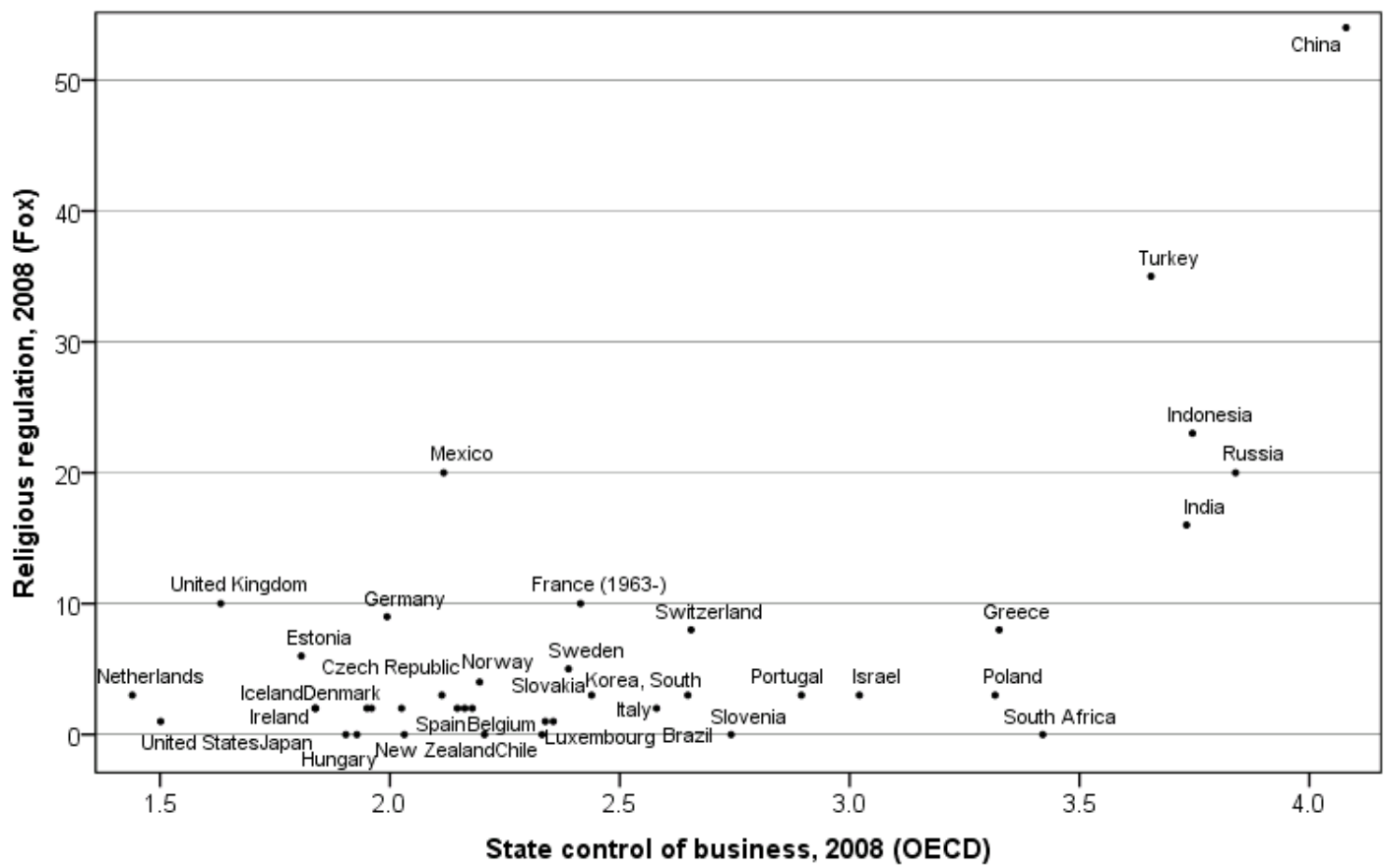
## Appendix A

	(1) <i>Legal origin</i>	(2) <i>State control of business, 2008</i>	(3) <i>Composite religious regulation, 2008</i>	(4) <i>Official restrictions on religion, 2008</i>	(5) <i>Government regulation of religion, 2003-08</i>
Australia <sup>#</sup>	English	2.21	0	2	.46
Austria	German	1.95	2	3	1.11
Belgium	French	2.15	2	3	1.57
Brazil <sup>#</sup>	French	2.65	3	0	.56
Canada <sup>#</sup>	English	1.96	2	0	.74
Chile <sup>#</sup>	French	2.33	0	1	.93
China <sup>#</sup>	Socialist	4.08	54	4	8.98
Czech Rep.	Socialist	2.11	3	1	.19
Denmark	Scandinavian	2.03	2	1	1.02
Estonia	Socialist	1.81	6	0	.00
Finland	Scandinavian	2.18	2	1	.83
France	French	2.41	10	2	2.87
Germany	German	1.99	9	3	2.22
Greece	French	3.33	8	2	5.46
Hungary	Socialist	2.03	0	1	.93
Iceland <sup>#</sup>	Scandinavian	1.84	2	1	.93
India <sup>#</sup>	English	3.73	16	2	5.83
Indonesia <sup>#</sup>	French	3.75	23	4	6.48
Ireland	English	1.84	2	0	.00
Israel <sup>#</sup>	English	3.02	3	1	4.07
Italy	French	2.58	2	1	1.20
Japan <sup>#</sup>	German	1.90	0	0	1.02
Korea (S.) <sup>#</sup>	German	2.44	3	0	.46
Luxembourg	French	2.34	1	1	.19
Mexico <sup>#</sup>	French	2.12	20	3	3.06
Netherlands	French	1.44	3	0	.00
N. Zealand <sup>#</sup>	English	1.93	0	0	.00
Norway <sup>#</sup>	Scandinavian	2.20	4	1	.74
Poland	Socialist	3.32	3	1	.00
Portugal	French	2.89	3	1	.00
Russia <sup>#</sup>	Socialist	3.84	20	3	5.19
Slovakia	Socialist	2.36	1	0	1.39
Slovenia	Socialist	2.74	0	1	.93
S. Africa <sup>#</sup>	English	3.42	0	0	.00
Spain	French	2.16	2	1	.83
Sweden	Scandinavian	2.39	5	3	.28
Switzerland <sup>#</sup>	German	2.66	8	2	.74
Turkey <sup>#</sup>	French	3.66	35	4	5.09
UK	English	1.63	10	1	1.48
USA <sup>#</sup>	English	1.50	1	0	.00

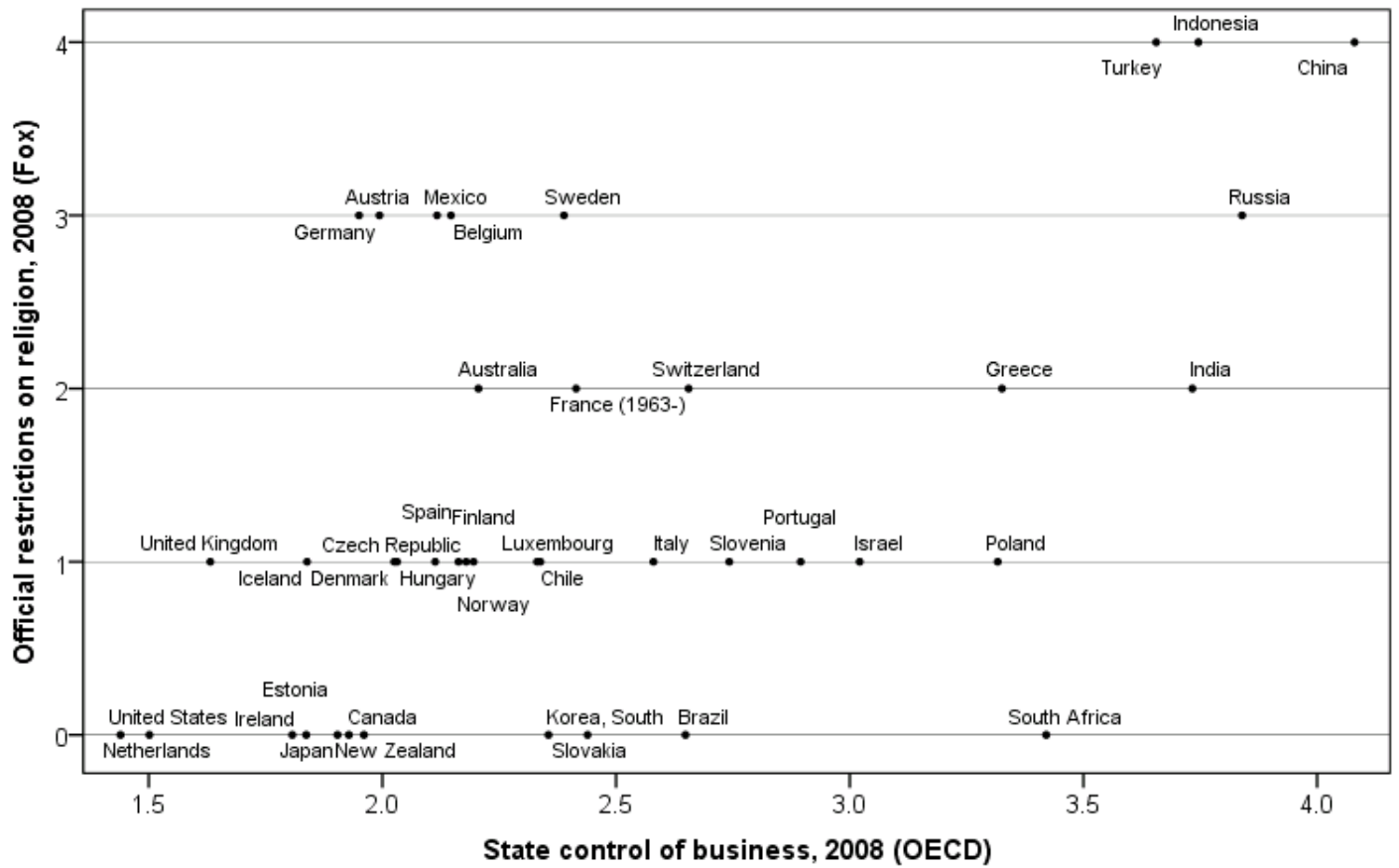
<sup>#</sup>: Non EU

Sources: (1) La Porta *et al.*, 1999; (2) OECD; (3)-(4) Fox, 2008, 2015; (5) Grim and Finke, 2006

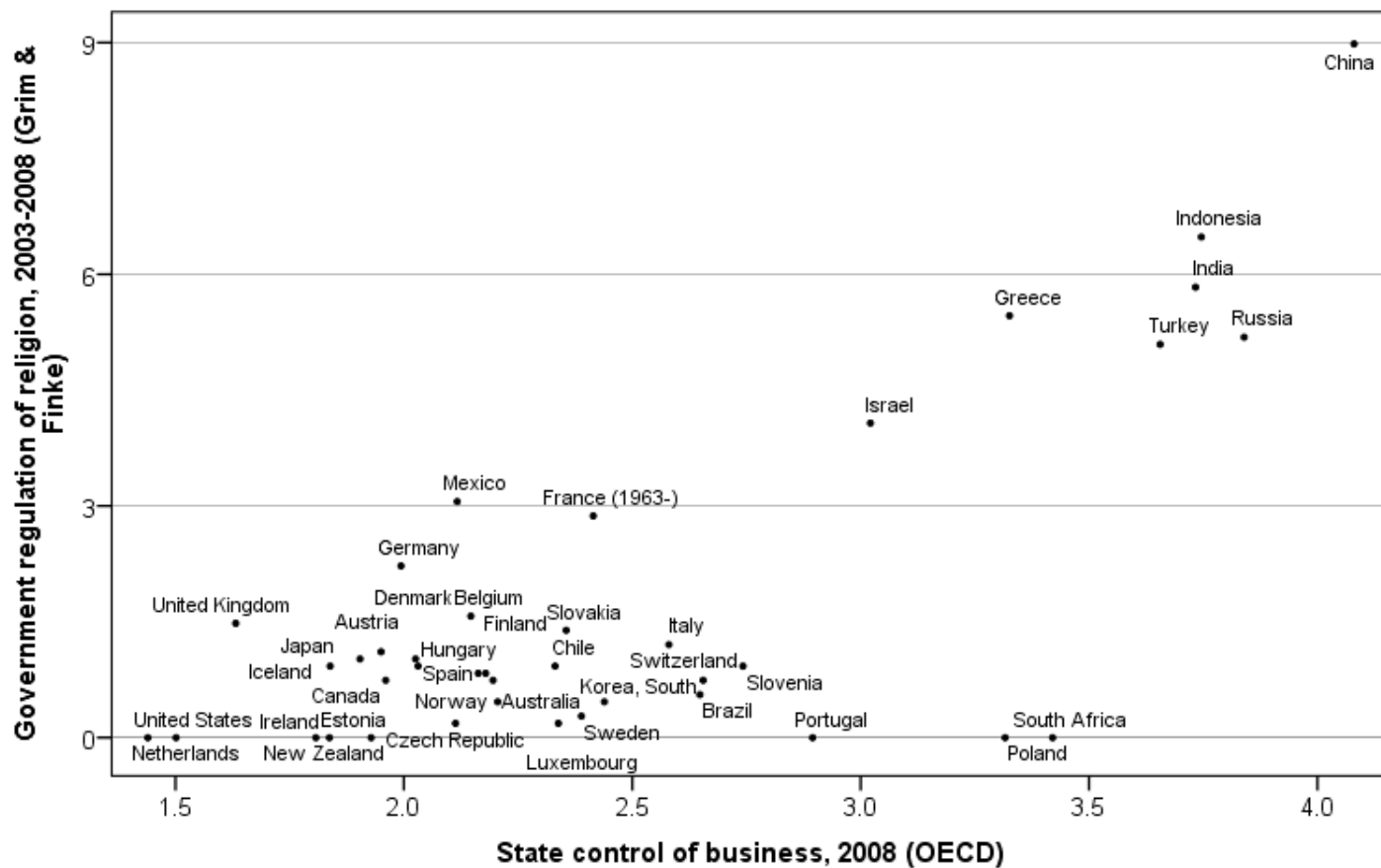




**Figure 1.** Business regulation and religious regulation ( $r=0.63$ )



**Figure 2.** Business regulation and government restrictions on religion ( $r=.51$ )



**Figure 3.** Business regulation and government regulation of religion ( $r = .73$ )

**Table 1.** Variables

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	<u>Source</u>
Composite religious regulation 2008	Religion and State dataset, round 2 (Fox, 2015)
Official restrictions on religion 2008	Religion and State dataset, round 2 (Fox, 2015)
Government regulation of religion 2003-2008	International Religious Freedom Data, Aggregate File (Grim and Finke, 2006)
English legal origin	La Porta <i>et al.</i> , 1999
EU membership 2008	<a href="https://europa.eu/european-union/about-eu">https://europa.eu/european-union/about-eu</a>
Economic regulation 2008	OECD Indicators of Product Market Regulation
Catholic majority country 2015	CIA World Factbook Country Profiles
Protestant majority country 2015	CIA World Factbook Country Profiles
Log GDP per capita 2008	The World Bank
Recent democratic transition 1955-2010	Ulfelder, 2012
Religious fractionalisation	Alesina <i>et al.</i> , 2003
Established religion 2008	Religion and State dataset, round 2 (Fox, 2015)
Socialist legal origin	La Porta <i>et al.</i> , 1999
State effectiveness 2008	World Bank Worldwide Governance Indicators
OECD membership 2008	<a href="http://www.oecd.org/about/membersandpartners/">http://www.oecd.org/about/membersandpartners/</a>

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**Table 2.** Correlations and descriptive statistics

	<u>Correlations</u>			<u>Descriptives</u>	
	Composite religious regulation	Official restrictions on religion	Government regulation of religion	min-max	mean (st.d.)
Composite religious regulation	-	.71***	.84***	0-54	6.75 (10.73)
Official restrictions on religion	.71***	-	.70***	0-4	1.38 (1.25)
Government regulation of religion	.84***	.70***	-	0-8.98	1.69 (2.16)
English legal origin	-.15	-.31*	-.07	0-1	.23 (.42)
EU membership	-.31*	-.08	-.31*	0-1	.53 (.51)
Economic regulation	.63***	.51***	.73***	1.44-4.08	2.47 (.69)
Catholic majority country	-.22	-.05	-.22	0-1	.35 (.48)
Protestant majority country	-.19	-.27*	-.32**	0-1	.25 (.44)
Log GDP per capita	-.56***	-.31**	-.61***	8.23-11.35	10.21 (.61)
Recent democratic transition	.12	.01	.16	0-1	.45 (.50)
Religious fractionalisation	-.12	-.35**	-.21	0-.86	.43 (.24)
Established religion	-.10	-.09	-.08	0-1	.18 (.38)
Socialist legal origin	.19	.00	.12	0-1	.20 (.41)
State effectiveness	-.52	-.31**	-.59***	0-2.24	1.13 (.70)
OECD membership	-.31**	-.10	-.43***	0-1	.75 (.44)

(N=40)

\*\*\* p&lt;0.01, \*\* p&lt;0.05, \* p&lt;0.10

**Table 3.** Explaining variation in religious regulation across 40 OECD member and partner countries

Dependent variable	Composite religious regulation	Official restrictions on religion	Government regulation of religion
	1	2	3
English legal origin	-7.93** (3.23)	-1.14** (.43)	-.84 (.55)
EU membership	-.65 (2.89)	.21 (.39)	.24 (.49)
Economic regulation	5.78** (2.51)	.84** (.34)	1.54*** (.43)
<i>Controls:</i>			
Catholic majority	-3.96 (3.02)	-.28 (.40)	-1.11** (.51)
Protestant majority	-1.95 (3.26)	-.41 (.44)	-1.14** (.56)
Log GDPpc	-10.12*** (3.30)	-.67 (.44)	-1.79*** (.56)
Democratic transition	-10.22*** (3.28)	-1.28*** (.44)	-1.87*** (.56)
<i>N</i>	40	40	40
<i>Model fit</i>	7.21***	4.39***	11.88***
<i>Adj. R<sup>2</sup></i>	.53	.38	.66

*Note:* Models estimated with intercepts. Higher scores in the regulation variables indicate state interventionism. Main cell entries are unstandardised OLS coefficients. Standard errors in parentheses.

\*\*\* p<0.01, \*\* p<0.05, \* p<0.10

**Table 4.** Explaining variation in religious regulation (alternative controls for religious background)

Dependent variable	Composite religious regulation		Official restrictions on religion		Government regulation of religion	
	I	II	I	II	I	II
English legal origin	-7.71** (3.22)	-7.91** (3.37)	-1.16** (.43)	-1.03** (.42)	-.94 (.56)	-.77 (.61)
EU membership	-1.80 (2.77)	-1.70 (2.84)	.14 (.37)	.05 (.37)	-.05 (.48)	-.13 (.51)
Economic regulation	6.30** (2.49)	6.40** (2.64)	.94*** (.33)	.78** (.34)	1.66*** (.43)	1.65*** (.48)
<i>Controls:</i>						
Log GDPpc	-10.04*** (3.39)	-10.08*** (3.37)	-.63 (.45)	-.75* (.44)	-1.99*** (.59)	-1.86*** (.61)
Democratic transition	-10.82*** (3.30)	-10.74*** (3.27)	-1.32*** (.44)	-1.29*** (.43)	-1.82*** (.57)	-1.95*** (.59)
Established religion	-.66 (3.29)	-	-.25 (.43)	-	1.03* (.57)	-
Rel. fractionalisation	-	1.02 (6.02)	-	-.86 (.79)	-	-.72 (1.09)
<i>N</i>	40	40	40	40	40	40
<i>Model fit</i>	7.97***	7.97***	5.06***	5.33***	12.71***	11.30***
<i>Adj. R<sup>2</sup></i>	.52	.52	.38	.40	.64	.61

*Note:* Models estimated with intercepts. Higher scores in the regulation variables indicate state interventionism. Main cell entries are unstandardised OLS coefficients. Standard errors in parentheses.

\*\*\* p<0.01, \*\* p<0.05, \* p<0.10