

# Pedagogical Reflections on the Introduction of a ‘Law and Religion’ Module in the Traditional Legal Curricula of Law Schools in the UK

## **Abstract**

*One important consequence of the English reformation was the dissolution of the Canon Law Faculties at the Universities of Oxford and Cambridge, effectively ending the academic study of law and religion in the United Kingdom. This all changed in the last decades of the twentieth century. In 1991, the Ecclesiastical Law Society supported the establishment of a Master’s Degree in Canon Law at the University of Cardiff Law School, the first of its type since the Reformation. The LLM led to the introduction of an undergraduate module on Law and Religion within the traditional curriculum of the Law School, which examined the interaction between State law and religion. This module has now been replicated in the University of Manchester Law School and Lancaster University Law School, as well as other Law Schools in the country. This paper will critically reflect on the pedagogical challenges personally faced by the author whilst delivering the Law and Religion module in the modern and secular law school setting, including: interdisciplinary initiatives, the role of the teacher’s faith and student engagement.*

**Key Words:** Religion, Belief, Higher Education, Law, Sociology, Pedagogy

## **Introduction**

The story of this research inquiry traces its roots to my enrolment in an academic practice programme at Lancaster University in 2016. This programme lasted for two years and was designed to help academics critically reflect on their pedagogical methods in teaching within the context of the modern Higher Education setting. My enrolment in this programme coincided with a golden opportunity (which I embraced) to single-handedly design (and go on to convene) a new Law and Religion module at Lancaster University Law School. I therefore decided that the pedagogical implications of introducing a Law and Religion module into a modern law school curriculum would be an excellent case-study to focus on within the structured educational environment of an academic practice programme. This research paper is the fruit of my reflections over a period of five years on this case-study. During these five years, I have both taught a Law and Religion module in a modern law school setting and simultaneously examined the pedagogical implications of doing so. The academic practice programme at Lancaster allowed me to explore relevant literature on pedagogy and the modern Higher Education setting related to my inquiry, as well as discuss my thought processes and reflections as I developed them with other academic colleagues through peer group sessions and online forum discussions. Particularly useful in this regard was the insights shared by academic colleagues from other departments who were able to share their own unique perspectives on my inquiry and address certain issues which I had not considered. Equally useful was an opportunity to present a conference paper on the topic at a SOAS University conference examining the phenomena of religion and belief in Higher Education, with the interdisciplinary perspectives shared in the conference further enriching my enquiry and crystallising my thoughts.

This research inquiry represents an original and valuable contribution to the sociology of religion for three reasons. The first is that Law and Religion is a niche inter-disciplinary area of law which has only been recently introduced as a module into the legal curricula of Law Schools in the UK and is therefore a novel field of pedagogical inquiry which can yield fruitful observations not only for the disciplines of law, sociology and religion, but also for other disciplines within the social sciences. The second related reason is the unique pedagogical perspective that the discipline of law can offer to the sociology of religion. Teaching religion within a law setting is characterised by distinctive features which share some parallels with the sociology of religion but also mark some important differences. A fascinating manifestation of such differences (to be further explored in the paper) is the current trend of UK Law Schools increasingly embracing Law and Religion as a curriculum module, which stands in stark contrast to the simultaneous decline of religious studies in many universities across the UK. The third and final reason is my personal engagement with the legal discipline of Law and Religion, both as a student and teacher. In my final year as a student at the University of Manchester Law School, Law and Religion was introduced as an undergraduate module for the first time, and I joined the first ever batch of students to study it in the school. The module was introduced by Professor Soren Holm, a Scandinavian academic whose impressive graduate qualifications in no less than three disciplines (medicine, philosophy and law) was typical of the inter-disciplinary backgrounds enjoyed by many pioneers in the field of Law and Religion. Dr Javier Garcia, a Spanish academic who has likewise pioneered in the field of Law and Religion, also taught on the module. After completing the module and graduating from my law degree, I then went onto do a PhD in the field of Law and Religion under the supervision of my two teachers, during which I helped them to further develop the undergraduate Law and Religion module that they had established. After being offered a lectureship at Lancaster University Law School, I therefore had the suitable experience to design a new Law and

Religion module for Lancaster University undergraduate law students, and have now been convening this module for the last six years. This direct and intimate experience of studying, designing, and teaching the module in two law schools has allowed me to shape this research inquiry with my own experience.

The research inquiry is structured in the following way. I begin with a research literature review in which I critically evaluate the academic literature dealing with the teaching of Law and Religion as a legal module, paying particular focus on analysing the development of the module within the modern Higher Education setting and relating this to pedagogical considerations. I then move on to the main body of the paper, which is split into three parts. The first analyses the boundaries of law as a discipline, and the benefit of interdisciplinary study as a pedagogical approach. I also discuss within this first part the challenges and opportunities involved in embarking upon the teaching of a fledgling discipline. In the second part, I discuss the impact of one's personal faith and beliefs on pedagogy and the student learning experience, within the specific context of a modern secular Law School. In this regard I focus on the teaching of Law and Religion but do so with the aim of drawing broader lessons for other disciplines within the social sciences in this regard. In the third and final part I assess the importance of connecting the discipline of Law and Religion with current socio-political developments and the implications this has on curriculum considerations such as employability, as well as reflecting on other curriculum considerations that I have taken to account in the design and delivery of the module. Finally, I close with a conclusion, summarising my findings.

## **Research Literature Review**

In order to put this literature review into an appropriate context, it is necessary to preface it with a preliminary comment on the historical evolution of Law and Religion as a legal module. The Norman Conquest in 1066 marked an important landmark in the early development of English law. It did not only lead to a connection between England and Normandy, but also formalised England's connection with Rome, which was the religious centre of Western Christendom at the time (Baker, 2002; Hanbury and Yardley 1979). During this period, England was a mono-credal society. In the words of the legal historian Milsom, "All lawful men were Christian, and important areas of their lives were subject to the law of the Church and no other" (Milsom 1981). This was reflected in the structure of the legal system (Baker 2002; Brooke 1931; Helmholz 1990). Disputes were not only resolved in the King's courts, but were also resolved in the Courts of the Church (known as the Courts Christian), which applied both the canon law of the Roman Church as well as the King's law (known as the 'Common law'). The teaching of Canon law was therefore not only a norm in legal education, but a necessary component of it (Sandberg 2011; Squibb 1977). In the two most important law faculties at the time-Oxford and Cambridge-canon law was taught alongside civil law to students of law aspiring to become lawyers. As is well known, the English Church broke away from Rome due to the marital problems of Henry VIII as well as a series of other factors. This led to the ousting of the papal jurisdiction in Rome and the transfer of most of the legal jurisdiction of the Church's courts to the King's courts (Watkin 1998; Berman 2003; Hill

2007). The faculties of Canon Law at the Universities of Oxford and Cambridge were also dissolved, effectively ending the combined academic study of religion and law in the UK.

With the rise of multiculturalism in the 20th century, a number of laws were passed which accommodated the religious practices of minority religious groups (Sandberg 2011; Doe 2014). The passing of the Human Rights 1998 was particularly momentous in this regard, enshrining the principle of religious freedom in the English legal system for the first time. These legislative changes led to a number of high profile cases in the courts relating to religion and religious belief (Beckford and Richardson 2007). In tandem with this new era of religious freedom, the academic study of religion and law in the UK was revived (Bradney 2001; Doe 2008; Edge 2008; Pearce 2010). In 1987, the Ecclesiastical Law Society was formed, providing a journal and a forum for issues of law and religion to be discussed. In 1991, the Ecclesiastical Law Society supported the establishment of a Master Degree Programme in Canon Law at Cardiff University Law School, the first of its type since the Reformation, providing the opportunity to law students for postgraduate study in the canon law of the Anglican Churches of the UK, as well as the study of the law of the Roman Catholic Church. This LLM led to the development of the Centre for Law and Religion at Cardiff university, the first such research cluster at a university in the United Kingdom. In 2000, the centre launched an undergraduate law module examining the interaction between English law and religion, and assessing the extent to which English law accommodated religious practices. This led to the introduction of similar undergraduate modules in the curricula of several other Law Schools, including both the University of Manchester and Lancaster University Law School, a process in which I was personally involved.

The fact that the undergraduate module of Law and Religion has been taught for less than twenty years in UK law schools means that the research literature analysing this module from a pedagogical perspective is very limited in scope, particularly with regards to pedagogical

analyses. Nevertheless, two important observations have been noted by pioneering Law and Religion scholars in the literature which are pertinent for this inquiry and thus merit examination. Both of these observations will inform the analysis in the main body of the inquiry.

The first pertinent observation is the inter-disciplinary characteristic of this discipline and the consequent challenges involved in delineating its appropriate boundaries. Which discourses should properly be left to the discipline of religious studies, and which can justifiably be included within the study of Law and Religion? Attempting to address and resolve this question, Law and Religion scholars have distinguished between two types of laws which engage with religion (Sandberg 2008; Doe 2014; Stausberg and Engler 2013; Ahdar 2018). The first is that part of secular state law which deals with and accommodates religion, and which can be termed 'religion law'. An example of 'religion law' is the English legal regulations concerning the registration of places of worship. The second type of law is religious customs and norms which stem from religious sources and guide the conduct of believers, such as ritual acts of worship which occur *in* a place of worship. Such laws may be labelled 'religious law'. Law and Religion Scholars have held that the discipline of Law and Religion primarily deals with 'religion law', whilst 'religious law' is the prerogative of religious studies. Nevertheless they have emphasised that 'religious law' is relevant in analysing 'religion law' and must therefore also be taken into consideration.

Alongside religious studies, sociology has also been highlighted as an important discipline which can illuminate the relationship between law and religion (Bradney 2011; Sandberg 2014; Ahdar 2018). Indeed an exclusively legalistic approach towards religion law can misrepresent the sociological reality of a particular society. An analysis of Danish religion law for example presents Denmark as a country which has maintained strong ties with Christianity and religious tradition. Combining this legal analysis however with a sociological analysis of how the law is

actually manifested in society reveals a more holistic picture which takes into account the famously dominant influence of secularism and materialism on modern Danish society (Iversen 2006; Kosmin and Keysar 2007).

The second pertinent observation to note in the literature is the discipline's focus since its inception on law's relationship with Christianity and Church-state relations, with a marked neglect of other religious traditions and their interaction with law (Davie 2001; Kotiranta 2005; Ahdar 2018). This focus stems from the personal interests of the discipline's pioneers in ecclesiastical law but also naturally coincides with the dominance of Christianity as a religious influence in European legal history. Looking ahead to the future development of the discipline, there is therefore much uncharted territory in the form of other religious traditions and institutions both new and old which can significantly enrich the discipline.

## **The Teaching of Law and Religion: Pedagogical Reflections**

### *Pedagogical Implications of an Interdisciplinary Focus*

A hallmark of Law and Religion as an undergraduate legal module is its ambitious attempt to combine between a study of two prestigious disciplines within the social sciences, each of which usually enjoy an independent department in modern universities. The pedagogical benefits of incorporating other fields of study into one's own curriculum and teaching has been noted in the literature and an inter-disciplinary approach to teaching has been promoted and gained momentum as a modern trend in the social sciences in particular but also in higher education more broadly (Smith and McCann 2001; Ivanitskaya et al 2002; Sandberg 2008; Borrego and Cutler 2010). Human society and social relationships are complex phenomena consisting of multiple diverse components which can be analysed from a plethora of



perspectives, with each perspective enjoying its own distinctive flavour and value. In this sense whilst each of the social sciences are distinctive in their analytical posture and perspective, they are at the same time inter-connected due to the unity of the core subject-matter. Integrating the findings and perspectives of other discipline's into one's own discipline and teaching therefore has the capacity to enrich one's discourse and develop new insights through synthesis of the combined subject matter.

An inter-disciplinary approach is a thus powerful way of enriching the student learning experience, which is particularly pertinent in the modern context of higher education. Students in modern universities tend to focus throughout their time in higher education on one particular discipline, and often have little exposure to other disciplines or fields of study. This situation has been exacerbated by employability considerations, which have driven students to focus exclusively on knowledge which will equip them with the requisite skills needed for their career within their own discipline and neglect other spheres of knowledge which appear not to enjoy the same material benefits (Rae 2007; Adler 2008; Fallows and Steven 2013). This approach contrasts starkly with the traditional approach of the liberal arts college which was a prominent historic feature of European higher education (Astin 1999; Joseph 2002). Such colleges aimed to give students an all-rounded education in a full range of classical disciplines in order to produce well-rounded minds with expansive intellectual capacities.

Introducing an undergraduate legal module which explores the relationship between law and religion has therefore been an excellent opportunity to capitalise on the aforementioned pedagogical benefits of inter-disciplinary study. The formation and development of English law has been directly shaped by Christianity, and significant religious influences on legislation and case-law can still be witnessed in the modern English legal system (Davies 1954; McIvor 2020; Oliver 2012; Helmholz 2017). The module has thus enabled students to enjoy a much more holistic picture and understanding of the law by analysing the way in which religion

historically impacted the development of the legal system. The historical study within the module has consequently helped students better understand the subject matter of other legal modules which they are studying because they are able to place the legal provisions studied in such modules within an appropriate historical and sociological context.

As was noted by the literature review, Law and Religion as a discipline engages with both state law which accommodates religion as well as religious laws which are the object of legal regulation. The module has thus offered students an opportunity to learn about religion as a social phenomenon within the context of their legal studies. A remarkable feature of the consequent discussions that have taken place in the teaching of this module is the way in which law has the capacity of removing the stigma usually attached to discussions concerning religion and theology. Students engaged at ease in discussions concerning various religious institutions, their doctrines and their role in society which they may very well have felt uncomfortable engaging with in other contexts. It was therefore very interesting to observe the power of law as a social construction in legitimising religious discussion. One of the reasons that students felt comfortable engaging in such discussion was because it was within the framework of legislation passed by parliament and case-law issued by judges sitting in state courts. This aptly explains the apparent anomaly found in the popularity and rise of this module over the last two decades in law schools across the country, within the broader higher education context of a general decline in religious studies (Marsh 2002; Ahdar 2018). Law has in this regard insulated the study of religion from the negative stigmas attached to it in a purely theological context, and law schools felt no reservations in introducing it within the legal curriculum when the pedagogical benefits of doing so became apparent.

***Impact of a Teacher's Faith and Personal Beliefs on Pedagogy and the Student Learning Experience***

In the course of elaborating on the second pertinent observation in the literature review, it was noted that the predominant focus of the discipline on Christianity and Church-State relations stems from the personal interests of the pioneering scholars who founded the discipline in ecclesiastical law. These personal interests are themselves often a consequence of the personal faith and religious beliefs of these very scholars. Indeed academics in all disciplines (both within and beyond the social sciences) are influenced by their personal beliefs or interests when deciding on the areas of research they wish to engage with and teach. The fact that a majority of the first Law and Religion scholars were Christian or naturally inclined towards the study of Christianity is not surprising given the dominant influence of Christianity on English heritage, culture and tradition. Importantly for this inquiry, such scholars recognised the influence of an academic's faith and personal beliefs on the perspective and approach taken in research. Based on this recognition, a convention was developed that scholars in the field should acknowledge the particular religious faith to which they adhere in the beginning of their publications for the purposes of ensuring openness and transparency in the academic exchange of ideas and views (Bradney 2001; Kotiranta 2005; Pearce 2010).

This acknowledgement regarding the influence of one's personal beliefs on research raises an important pedagogical question about the influence of a teacher's faith on the student learning experience. To what extent should academics allow their faith to influence their approach towards teaching? Whilst this question will be discussed in the specific context of Law and Religion as a legal module, the discussion will be relevant to other disciplines and fields of study. This is because an academic's faith or personal beliefs can influence their approach to teaching regardless of whether the subject matter is directly connected towards religion or not.

A pertinent place to begin with in addressing this issue is religious studies literature. This is because the pedagogical implications of a teacher's faith has been a classical and long-

standing issue in the field of religious studies. A particularly influential view in the modern literature that is widely accepted and practiced in the field of religious studies is that an academic teaching about religion in a higher education context must do so from a non-confessional perspective (Knott 2009; Jensen 2011). In other words whilst academics may strongly adhere to a particular faith or set of religious beliefs, they must disassociate themselves from such beliefs when partaking in their role as a teacher. A distinction is made in this regard between ‘insiders’ and ‘outsiders’ of a particular religion or faith, with emphasis laid on the fact that academics must teach as if they are ‘outsiders’ because this will guarantee objectivity and avoid any undue bias which could negatively influence the student learning experience (Pearson 2001; McLoughlin 2007; Gardiner and Engler 2012).

Taking into account my experience in teaching Law and Religion, I strongly disagree with this approach. From a normative perspective, I object to the claim that one can be ‘objective’ or ‘neutral’ in their approach to teaching, and I object to this being the case not only in relation to religious subject-matter but any other matter for that sake within the social sciences. Teaching within the social sciences is by its very nature a subjective exercise, and the teacher’s own set of personal views and beliefs must necessarily influence the teaching process. I also disagree with the fact that a subjective approach can negatively influence the student learning experience. To the contrary, I believe the personal engagement of academics with the subject-matter is what enriches and brings to life both the discourse itself and the perspectives which academics are able to share. The key qualification to this approach is that academics should not impose their viewpoint on any particular matter.

Importantly, a subjective approach also gives students an opportunity to personally engage with the subject-matter and contribute to the discussion based on their own life-experiences and individual beliefs. This is crucial when analysed from the lens of active learning and the importance of students constructing their own learning during their studies of any particular

subject-matter. I witnessed first-hand the positive outcomes when teaching this module of giving students a platform to offer their views on contentious topics such as the role of bishops in the House of Lords, the established status of the Church of England, the involvement of judges and courts in theological debates and the law's accommodation of minority religious practices. Indeed an important feature of the module's learning aims and outcomes was empowering students to engage in contentious debates and discussions with integrity and open-mindedness despite strongly-held beliefs on certain issues. I tried to do this in a number of ways. The first was through acting as a role-model myself for the students by discussing the contentious areas within the module in a composed and open manner, being careful to be as respectful as possible of all points of view. The second was setting ground rules during both lectures and seminars prior to opening up discussions which sought to foster amongst the students mutual respect and appropriate etiquette when debating with each other. As a consequence of this, I felt that students were able to flourish because they could confidently contribute towards the various discussions that took place with their own personal perspectives alongside their knowledge of the law. I also benefited myself as a teacher because I was able to gain certain insights from the students which I had not taken into consideration. In summary, I feel a humanistic approach towards the contribution of an academic's faith or personal beliefs on teaching results in a more positive and illuminating student learning experience.

***Highlighting the Discipline's Connection with Current Affairs and the Implications of this for Curriculum Considerations such as Employability***

In my first seminar with students who take this module, I ask each student to explain why they had chosen to study Law and Religion, bearing in mind it was a novel module to pick which law students do not usually have the opportunity to study. I was pleasantly surprised to find that a number of students had studied religious studies or related subjects such as philosophy for their A-Levels and had thoroughly enjoyed doing so, leading them to pick the module

because they felt that they could continue to learn about religion through the lens of the degree that had chosen to study at university. As pertinently, a number of students also admitted to the fact that they had originally wished to study religion at university as a degree choice, but they have opted in the end not to do so because they felt there wasn't any realistic career prospects in doing so. They were therefore very pleased with the opportunity to study this module as it allowed them to fulfil their original desire study religion, albeit through the lens of the law. This latter answer in particular highlights the common stereotype attached to religious studies and related fields such as philosophy in the limited career prospects they are able to offer to students, being dwarfed in this regard by the more materially prestigious disciplines like medicine, law and engineering. This was at the forefront of my mind when I decided to introduce this module into the legal curriculum at Lancaster and also when I was involved in the introduction of the module during my time at the University of Manchester.

As a result, I ensured that I emphasised in the marketing blurb of the module that religion in the 21st century continues to attract and engage the attention of the government, parliament and the courts, as it has done throughout English legal history. I then ensured that I continuously highlight this feature of the module to students during the teaching year, particularly whenever we come across high profile cases in the courts involving issues of law and religion. The pope's recent historic visits to the United Arab Emirates and Iraq represent a good illustration in this regard. Since I teach students about the different Church-State models in European legal systems, I used these visits to comment on the hybrid church-state model in Italy and the extent to which one could argue based on this model that such papal visits were not only an exertion of the Roman Catholic Church's influence but also an exertion of the Italian state's influence on foreign affairs. I have also tried to arrange for guest lectures to be delivered by members of state-institutions connected with the legal system. Such occasions greatly help to inspire the

students and open their minds up to the career prospects and potential for positive social impact connected to the module (Fallows and Steven 2013).

## **Concluding Reflections**

This inquiry has given me a valuable opportunity to reflect from a pedagogical perspective on my experience in introducing a novel interdisciplinary module into the traditional legal curriculum of UK Law Schools. I have as a result of the inquiry been able to pinpoint the unique challenges which I have faced in doing so and the pedagogical lessons that I have learnt. These lessons are useful not only for socio-legal studies and the sociology of religion, but more broadly the social sciences at large.

Through reflecting on the interdisciplinary features which are central to this module, I was able to observe the importance of an interdisciplinary approach in the study of law. Drawing on relevant disciplines within the social sciences such as history, politics and religious studies whilst teaching law significantly enhances the student learning experience by giving students a much more holistic and comprehensive understanding of the subject-matter. Sociology was highlighted in particular as offering an illuminating perspective on socio-legal phenomena which displays them as a more precise depiction of reality. The inquiry into the relevance of a teacher's faith on one's pedagogical approach highlighted the reciprocal benefits of personal engagement with the subject which one teaches and the potential this has to encourage student contribution and thereby enrich the student learning experience. Finally, assessing the importance of connecting this module with current affairs has revealed the weight which students place on employability considerations and the consequent importance for teachers in higher education to continuously ensure that they are relating their teaching to relevant socio-political developments and career-related discourses.

Perhaps the most valuable and novel contribution of this inquiry to the sociology of religion is the unique perspective given by analysing the phenomenon of religion in Higher Education through the lens of law. This was manifested in the paper through a number of observations. The first was the remarkable capacity of law to remove the stigma customarily attached to discussion of religion in a Higher Education setting. This reflects the distinctive authority which law enjoys as a social construction in influencing norms within UK society. The second and related observation was the fact that the revival of religious studies within modern secular UK Law Schools is a fascinating but understandable anomaly compared to the fate of religious studies in its more customary theological settings, with Law Schools in no need to express caution due to the very real, intimate and relevant relationship between law and religion in the modern English legal system. The third (and also related) observation was the marked contrast between those teaching religion in a Law School setting and those teaching religion in a more theological or sociological setting in relation to the role of the teacher's faith and belief. Once again, a lack of reservation and caution characterised the former group's approach, which positively embraced the role of the teacher's faith and belief with transparency and integrity. Finally, it was noted that Law and Religion challenges the stereotype amongst students (and their parents) that religious studies in all its forms is unable to offer the same material rewards as more prestigious disciplines can in modern universities. In this regard, Law and Religion offered a welcome opportunity for law students to explore religion as a socio-legal phenomenon and expand their intellectual horizons.

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