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Dimensions of Religious Harmony as Constitutional Practice: Beyond State Control

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Abstract

Religious harmony is an idea more commonly invoked in Asian countries, many of which are closely associated with non-individualistic or non-liberal approaches to law, ethics, and politics, than in Europe. As a constitutional norm, religious harmony not only directs state action involving the management of religious diversity but also has the potential to legitimate state action. As a result, harmony, including its subspecies of religious harmony, could be and has been criticized for imposing and legitimating an ideology of control over society, particularly over marginalized groups. While this is the case, I argue in this Article that religious harmony can mean many things and can be used in a myriad of ways that go beyond simply as a tool for state control. Religious harmony is not only a legal/constitutional principle, but has also become internalized as a social norm. Its regulating function extends to inter group relations and further grounds group demands on the state, thus imposing state obligations. To draw out the multiple and complex dimensions of religious harmony as a constitutional principle and social norm, I use Singapore, a self-avowed non-liberal communitarian state, as the primary case study in this Article.

Keywords: Constitutional law; religious diversity; religious harmony; religion; non-liberal constitutionalism; communitarianism

A. Introduction

“States have responsibility for ensuring, neutrally and impartially, the exercise of various religions, faiths and beliefs. Their role is to help maintain public order, *religious harmony* and tolerance in a democratic society, particularly between opposing groups.”¹

It may strike some as odd that this quote referencing “religious harmony” was actually articulated by the Grand Chamber of the European Court of Human Rights in the case of *Lautsi & Others v Italy*. This is because religious harmony, or even harmony itself, is not often invoked in human rights or even constitutional discourse in Europe. In fact, the only European

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¹Lautsi & Others v. Italy, App. No. 30814/06, para. 60 (Mar. 18, 2011) <http://hudoc.echr.coe.int/app/conversion/pdf?library=ECHR&id=001-104040&filename=001-104040.pdf>.

constitution that speaks of harmony is the Irish Constitution, which speaks of “harmony and friendship, to unite all the people who share the territory of the island of Ireland, in all the diversity of their identities and traditions.” No other constitution in Europe speaks of “harmony” and to date, there is a lack of detailed analysis as to what the European Court means when it refers to religious harmony.²

This apparently scarce attention to harmony appears to cohere with a suggestion that “disharmony seems a much more natural state of affairs than harmony to many Western political scientists.”³ This may be understandable because of skepticism that harmony is illiberal and entails the subordination of individual interests and rights to wider social, often statist, interests. One might therefore not be surprised to hear that, in contrast, the idea of harmony is more commonly invoked and discussed in Asia, a region where many states are more closely associated with non-individualistic or non-liberal approaches to law, ethics, and politics. Thus, it has been observed that ideas of harmony are a profound theme in Chinese thought and central to philosophic and political discussion in East Asia.⁴ In fact, many other countries in Asia also specifically appeal to harmony by direct reference to religious diversity in their constitutional texts. For instance, Article 51A of the Indian Constitution states that it shall be the fundamental duty of every citizen “to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities.”⁵ Malaysia designates Islam as the religion of the federation but affirms that “other religions may be practiced in peace and harmony.”⁶ Sri Lanka’s Constitution stipulates, *inter alia*, that the freedom of speech and expression, peaceful assembly, and association may be limited in the interests of “racial and religious harmony.”⁷ Similarly, Bangladesh provides that the state religion is Islam but “other religions may be practiced in peace and harmony”; and further restricts the constitutional right to form any association or union “for the purposes of destroying the religious, social and communal harmony among the citizens.”⁸

The prevalence of the idea of harmony as a legal principle is further reflected in the statute books of several Asian countries. The Indian Penal Code, which was the basis of the criminal code in many post-British colonies in Asia contain provisions that criminalizes acts prejudicial to the maintenance of harmony, including religious harmony.⁹ Singapore also has a Maintenance of Religious Harmony Act (MRHA) that was passed specifically with the objective of stipulating religious harmony as a controlling legal principle.¹⁰ There are also initiatives in other countries to legislate ‘religious harmony’ into being. In Indonesia, a draft law regulating religion emphasizes the need for every citizen to “apply their religious dogmas in an orderly, secure, peaceful, and harmonious manner.”¹¹ Similarly, a draft Interfaith Harmonious Coexistence Law, which seeks to protect religious harmony, is still on the Myanmar parliament’s agenda, even though previous

²See also *S.A.S. v France*, App. No. 43835/11, para 127 (Jul. 1, 2014).

³Julia Tao et al., *Why Governance for Harmony? in GOVERNANCE FOR HARMONY IN ASIA AND BEYOND 3* (Julia Tao et al. eds., 2009).

⁴*Id.* at 4.

⁵CONST. OF INDIA. art. 51(A).

⁶Federal Const. of Malaysia, art. 3(1).

⁷CONST. OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA. art. 15(2) and (3).

⁸CONST. OF THE PEOPLE’S REPUBLIC OF BANGLADESH art. 2A and art. 38.

⁹See Indian Penal Code § 8153A.

¹⁰See further discussion on Singapore in Li-ann Thio, *Rule of Law, Religious Liberty, and Harmony: Multiculturalism, Legal Pluralism, and the Singapore Model of Accommodative Secularism*, 5 J. L. RELIGION & ST. 254 (2017).

¹¹Melissa Crouch, *Shifting Conceptions of State Regulation of Religion: The Indonesian Draft Law on Inter-Religious Harmony*, 25(3) GLOBAL CHANGE, PEACE & SECURITY 265, 265 (2013).

parliaments have failed to pass such a law.¹² Notably, the law has been criticized by human rights advocates for undermining religious freedom.¹³

These laws provide a glimpse into the importance of religious harmony as a legal, political, and constitutional norm in various Asian countries. To be clear, it would be a fallacy to think that non-Asian regimes are not concerned with harmonious relations in society. Indeed, as the Grand Chamber of the European Court of Human Rights' statement in the quote from *Lautsi & Others v Italy* above shows, the idea of religious harmony is present within the European court's lexicon, even though it has not been closely analyzed. In fact, one possibility is that what Asian states call religious harmony exists in the European context under different terminology.¹⁴ For instance, one could possibly discern an idea akin to religious harmony in John Locke's writing when he speaks of tolerance and peace among religious groups.¹⁵ The key distinction between liberal and non-liberal societies lies in the modality by which harmony is to be achieved. Where a liberal state is committed, *prima facie*, to neutrality¹⁶ and/or the prioritization of individual rights¹⁷ over community or societal interests, it is, at least theoretically, subject to greater constraints on the use of state power to realize religious harmony. In contrast, a non-liberal state, not similarly constrained by liberal values, may have greater scope to impose state-driven laws and policies to ensure religious harmony, even if this results in the subordination of individual rights to community and societal interests or if the state is criticized for lack of neutrality.¹⁸ This is because non-liberal states often do not prioritize the individual in the same way as would be required under liberal constraints. Neither do they claim to be neutral; instead, many non-liberal states explicitly and enthusiastically privilege a substantive vision of the good which could be based on ethnicity, religion, communal morality, or on a particular political ideology, such as communitarianism, authoritarianism, socialism, or communism.¹⁹

The main claim in religious harmony discourse in Asia is that religious pluralism is best managed and maintained through the requirements of harmony. As a constitutional norm, it not only directs state action involving the management of religious diversity but also has the potential to legitimate state action. Furthermore, religious harmony tends to prioritize the community (sometimes conflated with the state) over the individual and even groups. Thus, harmony, including its sub-species of religious harmony, could be and has been criticized for imposing and legitimating an ideology of control over society, particularly over marginalized groups.²⁰ While this is the case, I argue that religious harmony is a multivalent idea that is more than just a tool for state control.

¹²Ei Ei Toe Lwin, *NLD Considers Religious Harmony Law*, MYANMAR TIMES (May 20, 2016), <https://www.mmtimes.com/national-news/yanon/20397-nld-considers-religious-harmony-law.html>.

¹³*Myanmar: Draft Interfaith Harmonious Coexistence Bill Continues to Endanger Fundamental Rights*, ARTICLE 19 (Sept. 7, 2019), <https://www.article19.org/resources/myanmar-draft-interfaith-harmonious-coexistence-bill-continues-to-endanger-fundamental-rights/>.

¹⁴For instance, the Grand Chamber in *S.A.S. v France* also referred to another concept—"living together"—which could overlap with, or even be equated with, the idea of religious harmony (*supra* note 2). See also Shelby L. Wade, "Living Together" or Living Apart from Religious Freedoms? *The European Court of Human Rights' Concept of "Living Together" and its Impact on Religious Freedom*, 50 CASE W. RES. INT'L L.J. 411, 411 (2018).

¹⁵JOHN LOCKE, A LETTER CONCERNING TOLERATION (1689), reprinted in John Locke: A Letter Concerning Toleration in Focus 17 (John Horton & Susan Mendus eds., 1991).

¹⁶Claims that the liberal state should be neutral is another key point of divergence between liberal and non-liberal arrangements. Graham Walker, *The New Mixed Constitution: A Response to Liberal Debility & Constitutional Deadlock in Eastern Europe*, 26 POLITY 503, 506 (1994).

¹⁷While there are many variants of liberalism, great importance has been attached to the priority of the individual in many accounts of liberalism. See, e.g., JOHN GRAY, LIBERALISM ix (2nd ed. 1995) (stating four principle characteristics of liberalism as individualism, egalitarianism, universalism, and meliorism); REX AHDAR & IAN LEIGH, RELIGIOUS FREEDOM IN THE LIBERAL STATE 53 (2nd ed. 2013) (same).

¹⁸See Jaclyn L. Neo, *Secularism without Liberalism: Religious Freedom and Secularism in a Non-Liberal State*, MICH. ST. L. REV. 333, 333 (2017).

¹⁹Graham Walker, *The Mixed Constitution after Liberalism*, 4 CARDOZO INT'L & COMP. L.J. 311, 319 (1996).

²⁰See, e.g., LAURA NADER, HARMONY IDEOLOGY, JUSTICE AND CONTROL IN A ZAPOTEC MOUNTAIN VILLAGE (1990).

Indeed, it is my position that the constitutionalization of religious harmony expands its scope such that the claims of religious harmony can take on forms and claims beyond the state. In this regard, religious harmony not only entails a vertical state-group relationship of control, it can also frame a horizontal group-group relationship of mutual control, as well as a reverse vertical group-state relationship which imposes obligations on the state. To illustrate this, in this Article, I examine the employment of religious harmony as a political and legal claim in Singapore, which is a self-proclaimed non-liberal, communitarian state.

Now, the Singapore example is of relevance to many other Asian jurisdictions which are similarly self-identified as non-liberal and/or communitarian. It is also instructive beyond that as countries seek new or modified approaches to better manage religious diversity and diversification. The broader question implicated in this article is whether religious harmony is a useful and appropriate way to shape a more effective and yet balanced approach to managing plurality. An examination of the constitutional practice of religious harmony in Singapore shows how religious harmony influences not only constitutional and legal reasoning, but also social discourse. Furthermore, where religious harmony effectively functions as a countervailing and rights-limiting interest, it is important to see that this arises not merely as a result of state control, but also due to social pressures framed around the claim of religious harmony as both a constitutional/legal and social norm.

B. The Idea of Harmony: Order, Complementariness, and Uniformity

In order to properly critique the use of religious harmony as a legal principle and social norm, it is necessary to determine what exactly does harmony mean? What quality of society would qualify it as harmonious? Does harmony refer simply to the absence of strife or is harmony something more? In general, harmony is probably most commonly understood in musical terms, where, at its simplest it is understood as “the simultaneous sounding of 2 or more notes.”²¹ More broadly, the Oxford English Dictionary defines “harmony” as a “[c]ombination or adaptation of parts, elements, or related things, so as to form a consistent and orderly whole.”²² A more value-laden conception of harmony suggests an “[a]greement of feeling or sentiment,” “peaceableness,” and “concord.”²³

Harmony can be understood in metaphysical terms, as well as a principle of ethics,²⁴ politics,²⁵ and even law. It is possible to conceptualize varying types of harmony existing on different levels of natural and human existence.²⁶ In general, harmony encompasses at least three qualities: it is correlative, contextual, and contingent. Correlativity emphasizes that harmony exists not only where there is plurality, be it plurality of notes or other things, but where they relate to one another. Harmony is a relational concept that “presupposes the coexistence of multiple and diverse parties.”²⁷ Indeed, Zink emphasizes that harmony is “a relation among differing elements, determined originally and ultimately by a certain kind of immediate response, but capable of statement, manipulation, and composition by means of mediate symbols.”²⁸

Contextualism emphasizes that harmony is rooted in context, and cannot be understood apart from the social, political, and/or legal conditions within which it operates. As Cheng puts it,

²¹Joyce Bourne, *The Oxford Dictionary of Music* (6th ed. 2012).

²²*Harmony*, Oxford English Dictionary.

²³*id.*

²⁴Li Chenyang, *Harmony as a Guiding Principle for Governance*, in *GOVERNANCE FOR HARMONY IN ASIA AND BEYOND* 38, 38 (Julia Tao et al. eds., 2009).

²⁵See generally Tao, *supra* note 3, at 3.

²⁶Chung-Ying Cheng, *Toward Constructing a Dialectics of Harmonization: Harmony and Conflict in Chinese Philosophy*, 4 *J. CHINESE PHIL.* 25, 27 (2006).

²⁷Li, *supra* note 24, at 38.

²⁸Sidney Zink, *The Good as Harmony*, 53 *PHIL. REV.* 557, 560 (1944).

“[o]bjectively and realistically speaking, we cannot even specify causes and conditions of harmony and conflict without specifying the contexts of relationships in which harmony or conflict arises.”²⁹ A principle of harmony thus requires a contextual approach where acts and decisions are taken after seeing things and judging things in relation and in context, rather than in isolation or even in abstract.³⁰ Lastly, following from contextualism, contingency points to the dynamic nature of harmony where its existence depends on a negotiated balancing of different interests, rather than of rights, claims, and entitlements at different points in time.³¹

The qualities of correlativity, contextualism, and contingency make it difficult to identify harmony. One may instead seek to identify a want of harmony rather than harmony, but even that could be a complex task since disharmony could manifest itself along a spectrum from open disagreement to outright violence. Furthermore, it remains difficult to determine where harmony ends and disharmony begins; for instance, is quiet disagreement reflective of harmony or disharmony? Thus, it has been suggested that harmony and disharmony should be conceptualized as existing on a continuum³² rather than in dichotomous terms.

Despite these definitional difficulties, harmony has become a key governing political and legal principle in the management of religious plurality in many Asian countries. It often grounds a pragmatic mode of governance and/or legal norm that guides state action in pursuit of accommodation among different groups. At the same time, harmony also often serves as a legitimating principle for the imposition of legal and even socio-political obligations on groups and individuals. The degree to which state action and imposed obligations are justified and justifiable would surely depend on how religious harmony is conceptualized.

One common way of understanding harmony is as a form of *order*; here, harmony refers to the absence of strife³³ or as coexistence of different groups. As a principle, religious harmony points to the need to avoid inter-religious conflict.³⁴ This idea of religious harmony as order is commonly seen in colonial history in Asia whereby, as Hussin observes, the “conceptual genealogy of religious harmony” is based on “concerns not for toleration or liberty, but for *order*.”³⁵ Local religious sensitivities are seen as a potential source of threat to public order³⁶ and the authorities are empowered to exercise coercive power to maintain order within a pluralistic society so as to preserve communal (religious) harmony. Notably, harmony as order may point to a thin conception of society since order or coexistence does not necessarily speak to any meaningful form of intermingling. One could imagine a condition of coexistence where there is a relationship of independence or segregation and indifference among the different components of society. Where this is the case, religious harmony as *order* does not necessarily result in any strong sense of community or solidarity among the different religious groups. The primary obligations being imposed on groups could simply entail keeping to one’s segregated spheres and forbearance in situations of potential conflict.

In comparison, a stronger sense of harmony may entail thicker obligations, such that religious groups are required to intermingle and engage with one another. In the course of that engagement, they may be required to exercise forbearance and at times to sacrifice a strong insistence on rights. Such a conception of religious harmony goes beyond mere order to an idea of harmony as

²⁹Cheng, *supra* note 26, at 28.

³⁰Li, *supra* note 24, at 38.

³¹*id.* at 37.

³²Laura Nader, *Coercive Harmony: The Political Economy of Legal Models*, 80 KROEBER ANTHROPOLOGICAL SOC’Y PAPERS 1, 1 (1996) [hereinafter Nader, *Coercive Harmony*].

³³Zink, *supra* note 28, at 565.

³⁴See Iza Hussin, “The New Global Politics of Religion”: *Religious Harmony, Public Order, and Securitisation in the Post-Colony*, 4 RELIGION & POL. PRAC. J. 93, 104 (2018).

³⁵*Id.* at 94 (emphasis added).

³⁶IZA HUSSIN, *THE POLITICS OF ISLAMIC LAW* 73 (2016).

complementariness. This points to a more dynamic and interactive idea of harmony, whereby differentiated elements have to be managed and carefully balanced in order to create a complementary whole. In this regard, religious harmony could entail “careful balancing between the requirements of the state for order, the demands of religious communities for freedom of practice, and the need for these practices not to overlap into the sensitivities of other religious communities.”³⁷ One can discern such an idea of harmony in a particular literature on Confucian philosophy, where scholars suggest maps onto the idea of 和 (he), understood as a “balance of complementary differences.”³⁸ Complementariness may therefore entail more active obligations upon groups and individuals to mutually adapt to avoid disharmony. Adaptation is required when distinct communities find their interests commingling, whether in alignment or in opposition.³⁹

Nonetheless, the idea of harmony as complementariness is not easy to achieve because it is not clear how much incongruence is allowed before a state of harmony is breached. Or, as Angle puts it, “how much pluralism can a doctrine of complementary differences allow?”⁴⁰ This brings us to the third idea of harmony, which is harmony as *uniformity*. Critics, like Peerenboom, argue that harmony ultimately collapses, at least in practice, into demands for unity and uniformity.⁴¹ Harmony is achieved not through a balance of complementary or even contrasting elements, but by ensuring a uniformity of values and elements. Disharmony is seen as arising from “discord between individual interests and social interests.”⁴² When individuals seek to protect their rights, this could be seen as causing disharmony. Such disharmony “is to be overcome by regulating individuals according to the social order.”⁴³ As such, the idea of harmony as *uniformity* could result in the subjugation of individual and even smaller group interests in favor of community or national interests.

These different conceptions of harmony make varying demands on the state and society. In terms of religious diversity, this raises important questions about how much accommodation is possible under the terms of religious harmony. Religious harmony as *order* may see all forms of conflict as undesirable, but allow for segregation or even latent hostility among different religious groups. Religious harmony as *uniformity* may go beyond ensuring a lack of open conflict and instead entail suppressing or discouraging any disagreement that may lead to conflict. As a result, harmony as uniformity tends to be seen as inimical to individual rights, which has to be subjugated to community or collective interests for the maintenance of communal harmony.⁴⁴

To be sure, defenders of harmony argue that harmony as uniformity is a distortion of the idea of harmony. Li, for instance, argues that harmony does not require “perfect accord” or “complete agreement.”⁴⁵ He emphasizes that, while Confucian harmony does not preclude uniformity, they are not the same thing. Indeed, harmonization does not require a claim of “absolute superiority” by any to the other rights or interests. Instead, he points to harmony as being characterized by a relationship of “mutual complement and mutual support among parties.”⁴⁶ However, even where harmony is conceptualized as *complementariness*, there is still a requirement that individuals and even groups to adapt their interests to suit broader community or collective interests. Even Li

³⁷Hussin, *supra* note 34, at 100.

³⁸Stephen C. Angle, *Human Rights and Harmony*, 30 HUMAN RIGHTS Q. 76, 79 (2008).

³⁹This understanding of harmony has also been discussed in the context of the American constitution: Jesse M Cross, National Harmony: An Inter-Branch Constitutional Principle and Its Application to Diversity Jurisdiction, 93 NEB. L. REV. 139 (2014).

⁴⁰Angle, *supra* note 38, at 77.

⁴¹Randall Peerenboom, *Confucian Harmony and Freedom of Thought: The Right to Think Versus Right Thinking*, in CONFUCIANISM AND HUMAN RIGHTS 234, 235 (William Theodore de Bary & Tu Weiming eds., 1998).

⁴²Cheng, *supra* note 26, at 45.

⁴³*Id.*

⁴⁴Angle, *supra* note 38, at 77.

⁴⁵Li, *supra* note 24, at 38.

⁴⁶*Id.*

points out that harmony is to be “realized in the relationships of various components” and in its ability to “integrate different elements.”⁴⁷ Such integration, according to him, entails two aspects: First, the transformation of antagonistic elements to harmonious ones; and second, the accommodation of potentially antagonistic elements prior to their transformation.⁴⁸ Harmony, even as complementarity, does not prioritize and defend individual rights against community and state interests.

In general, it is not hard to see how the idea of religious harmony may appeal to communitarian states with religiously diverse societies, like Singapore. While there are many variations and permutations of communitarian thought, communitarians agree in their disagreement with the liberal claim that each person ought to determine the good individually.⁴⁹ Instead, communitarians stress that individuals are socially embedded and have social responsibilities to each other, to their communities, and to the common good.⁵⁰ This disagreement about the self—whether contextualized or situated versus unencumbered—lies at the heart of the communitarian versus liberalism debate. Communitarians advocate a balance between community and autonomy, and between individual rights and social responsibilities.⁵¹ In this regard, religious harmony can be a powerful principle through which to realize this claim of social embeddedness and social responsibilities. Precisely because harmony is correlative, contextual, and contingent, it is especially conducive to the balancing of interests valued in communitarian societies. Harmony could serve as a regulating principle to manage the relationship among the state, community, groups, and individuals.

In the next Section, I examine the formation of religious harmony as a constitutional or quasi-constitutional principle in Singapore, a society which has been described as communitarian. In Singapore, religious harmony has become a major regulating principle deemed necessary to govern its highly religiously pluralistic society. I argue that the legal principle of religious harmony fits into a critique of harmony as legitimating state control of individuals and groups, whereby individual freedoms are constrained. This is particularly since the law is supported by a state narrative of religious harmony as a crucial norm, imbued with constitutional importance. However, I also argue that the diffusion of religious harmony as a constitutional or quasi-constitutional principle has expanded its applicability beyond state control.

C. Religious Harmony as a Legal-Constitutional Principle: Proscribing Conduct and Restricting Rights

I. Legislating Religious Harmony in Singapore

Singapore is probably unparalleled worldwide in the sophistication in which it has constructed ‘religious harmony’ as a principle regulating the relationship between state and society, as well as the relationship between groups and individuals in society. Religious harmony is so frequently invoked and given so much importance that it has attained implicit, if not explicit, constitutional status. Religious harmony in Singapore serves as a regulating principle, proscribing speech and acts of persons. It is most strongly articulated in the Maintenance of Religious Harmony Act (“MRHA”). The law empowers the government to issue a restraining order of up to two years to a religious leader or a member of a religious institution deemed to have acted in a manner threatening to religious harmony.⁵² The restraining order constrains the person from addressing

⁴⁷*Id.*, at 41.

⁴⁸*Id.*

⁴⁹Amitai Etzioni, *Communitarianism*, in INTERNATIONAL ENCYCLOPEDIA OF POLITICAL SCIENCE 327 (2011).

⁵⁰*Id.*

⁵¹Mark Bevir, *Communitarianism*, in ENCYCLOPEDIA OF GOVERNANCE 125 (2007).

⁵²For a detailed examination of the diversity of voices, positions, and sentiments in the making of the MRHA, see generally Vineeta Sinha, *Theorising ‘Talk’ about ‘Religious Pluralism’ and ‘Religious Harmony’ in Singapore*, 20(1) J. OF CONTEMPORARY RELIGION 25 (2005).

a particular offending topic or theme. Criminal sanctions follow only if this restraining order is violated. Threats to religious harmony are described as acts:

- (a) causing feelings of enmity, hatred, ill-will or hostility between different religious groups;
- (b) carrying out activities to promote a political cause, or a cause of any political party while, or under the guise of, propagating or practising any religious belief;
- (c) carrying out subversive activities under the guise of propagating or practising any religious belief; or
- (d) exciting disaffection against the President or the Government while, or under the guise of, propagating or practising any religious belief.⁵³

While the first type of activities is directly targeted at relations among different groups, the latter three affect inter-religious relations in a much less direct manner. The argument is that the latter three types of activities would constitute mixing religion with politics, whereby politicians use organized religion to advance political aims, or religious leaders using the pulpit as a platform for political activism.⁵⁴ The link between mixing religion with politics, on the one hand, and religious harmony, on the other, is not immediately obvious. The government's argument that politicized religion or religionized politics is a threat to religious harmony has to be understood in the context of Singapore's highly pluralistic society. The explanation is that mixing religion with politics could give rise to situations of increased political competition among religious groups to gain influence over the government. Such politicization and competition is seen as potentially increasing friction among religious groups, thus threatening religious harmony.⁵⁵

[W]hen one religious group involves itself in this way in political issues, it must follow that other groups will do the same. And various groups will want to outdo each other. Then again, when that happens, what would the party in power, or for that matter all other political parties, do? Can they be expected to be quiet? Surely they will look for religious groups and their flocks to back them up. The end result surely is obvious. It is inevitable that there will be collision between the different religious groups and the Government leading to instability and conflict. It is extremely important therefore that priests and other religious leaders do not mix religion and politics and mount political campaigns.⁵⁶

This element of managing competition as crucial to religious harmony is further evident in the other types of activities that the government identifies as threatening. According to the government, "insensitive, aggressive religious proselytization"⁵⁷ and explicit denigration of other religions would also threaten religious harmony. The scenario painted by the Singapore government takes the following form:

For example, you have a Muslim priest denouncing Christianity as the most foolish religion. Surely that is going to upset Christians. Then you have Christian groups pasting posters

⁵³Sing. Maintenance of Religious Harmony Act § 8(1).

⁵⁴Singapore Parliamentary Debates (Oct. 6, 1989).

⁵⁵This is especially true because the minister is granted wide discretionary powers to define what would constitute an act falling within the prohibited sphere of action. See Thio Li-ann, *Human Rights Watchdog: Ousting the Judiciary*, in *MANAGING POLITICAL CHANGE: THE ELECTED PRESIDENCY OF SINGAPORE* 129 (Kevin YL Tan & Lam Peng Er eds., 1997).

⁵⁶*Maintenance of Religious Harmony Bill*, 54 SINGAPORE PARLIAMENTARY REPORTS, at cols. 1050–52 (Feb. 22, 1990), <https://thir.st/wp-content/uploads/2018/04/Parliamentary-Debate-on-MAINTENANCE-OF-RELIGIOUS-HARMONY-BILL.pdf>.

⁵⁷Among the examples raised by the Minister are these:

[S]hould one say that another person's religion is a greater threat to mankind than communism? Would you expect the leaders of that religious group to take it calmly? Again another example. To say that the head of the Catholic church, the Pope, is the anti-Christ, will that not upset and provoke strong emotions amongst Catholics?

announcing a forthcoming seminar outside a Hindu temple. Is that wise? Then Protestant pamphlets denigrating the Roman Catholic church and the Pope. Surely they would take great offence and umbrage. So considering what is happening in other parts of the world, taking note of what is happening here, it is obvious that religious harmony is a fragile matter. It needs careful nurturing and it will be a folly to assume that it will always be there. Therefore, conscious efforts are needed by religious groups, religious leaders and their followers to ensure that nothing jeopardizes it.⁵⁸

Within the MRHA, therefore, is a strong assumption that too much and unregulated inter-religious competition would threaten religious harmony. Such inter-religious division range from the most explicit, in the form of inter-group violence, to the more subdued in the form of “deep feelings of resentment and considerable intense wounded feelings.”⁵⁹

Accordingly, religious harmony is to be maintained by imposing limits on the right to freedom of speech and religious freedom. The intrusiveness of the law is especially severe if one considers that it restrains speech made within the religious context, often within the confines of a place of worship. This may be contrasted with the approach in some other countries where speech and activities made within a religious place of worship may be exempted from a range of general laws as they are considered sanctuaries.⁶⁰ The law also specifically targets religious leaders—as well as those in positions of authority or influence within religious organizations—and not the general public. An argument for this increased burden is that religious leaders, having a greater scope of influence over their religious adherents, should be subject to greater scrutiny and should be restrained from active politics just as those in certain positions of influence such as judges and civil servants.⁶¹ Interestingly, despite being in effect since 1991, no restraining order has ever been issued under the MRHA. Its effectiveness therefore lies in its norm-setting function rather than in its actual employment. It serves precisely to create a chilling effect for religious leaders while empowering the government to warn them without immediately invoking criminal law.

While the MRHA is rather unique as a specialist statute on religious harmony, there are other laws regulating speech and conduct in the interests of religious harmony. Specifically, in Singapore, as in other former British colonies in Asia, the criminal code is based on the Indian Penal Code (IPC) and contains a whole chapter on offenses against religion. The original intent for this chapter in the IPC has always been to ensure inter-communal harmony within the context of a multicultural society.⁶² The Singapore Penal Code similarly contains provisions directly criminalizing speech, signs, or other visible representations that “knowingly promote[] or attempt[] to promote, on grounds of religion or race, disharmony or feelings of enmity, hatred or ill-will between different religious or racial groups.”⁶³ It is also an offense to commit acts that one “knows is prejudicial to the maintenance of harmony between different religious or racial groups and which disturbs or is likely to disturb the public tranquility.”⁶⁴ These laws see a short and direct link between religious feelings and public action. They conceptualize harm to religious

⁵⁸*Id.*

⁵⁹*Maintenance of Religious Harmony Bill*, *supra* note 56.

⁶⁰For instance, Dutch law even forbids the police from disrupting a church service to make an arrest, and this was recently invoked by a church in the Hague to prevent an Armenian immigrant family from deportation. Francesca Paris, *Months-Long Dutch Church Service To Protect Migrants Ends After Policy Shift*, NPR (Jan. 31, 2019), <https://www.npr.org/2019/01/31/690403074/months-long-dutch-church-service-to-protect-migrants-ends-after-policy-shift>. For a discussion on sanctuary claims in the United States, see Thomas Scott-Railton, *A Legal Sanctuary: How the Religious Freedom Restoration Act Could Protect Sanctuary Churches*, YALE L.J. 408, 408 (2018).

⁶¹*Maintenance of Religious Harmony White Paper* (Paper Cmd. No. 21 of 1989) (Dec. 26, 1989) [hereinafter MRHA White Paper].

⁶²Akhtar Rasool Bodla, *Genesis of Blasphemy Laws in Colonial India*, XXXVIII PAK. HIST. & CULT. J. 140, 152 (2017).

⁶³See Sing. Pen. Code § 298A(a).

⁶⁴See Sing. Pen. Code § 298A(b).

feelings as real harm that could fairly quickly give rise to acts that may threaten inter-religious coexistence.⁶⁵ These criminal provisions effectively limit freedom of religious profession, which implicates both freedom of religion and freedom of speech, with the principle of religious harmony. Besides the MRHA and the Penal Code, religious harmony has also been invoked to justify the use of the Sedition Act⁶⁶ against speech deemed inimical to inter-group coexistence.

II. Religious Harmony as a Rights-Constraining Constitutional Principle

The conception of religious harmony set out in the laws in Singapore – the MRHA and the Penal Code – coheres with the idea harmony as *order*. This *order* conception of religious harmony supports the invocation of religious harmony as a public interest to counter constitutional rights. As mentioned above, the MRHA clearly sets religious harmony as a limit on freedom of speech and religion. While there has yet to be any constitutional challenge to the MRHA or to any laws regulating freedom of religion and expression on the basis of maintaining religious harmony,⁶⁷ existing case law suggests that religious harmony is likely to be upheld as a form of public order limitation. For instance, in the 2005 case of *Public Prosecutor v. Koh Song Huat Benjamin*,⁶⁸ the District Court held that the “right of one person’s freedom of expression must *always* be balanced by the right of another’s freedom from offence, and tampered by wider public interest considerations.”⁶⁹ This wider public interest consideration presumably refers to religious harmony. This is reflected in the court’s statement that each individual living in Singapore “owes it to himself and to the country to see that nothing is said or done which might incite the people and plunge the country into racial strife and violence.”⁷⁰ In this case, two individuals had been charged under the Sedition Act for promoting “feelings of ill-will and hostility between different races or classes of the population”⁷¹ by posting various online comments that directly targeted Muslims.⁷² While religion is not explicitly listed in this provision of the Sedition Act, the court implies into the provision as there is historically and socially an overlap between the Malay race/ethnicity and Islam in Singapore. Both accused persons pleaded guilty. In sentencing, the District Court issued a written judgment explaining the need for a general deterrent sentence. It reasoned that “callous and reckless remarks on racial or religious subjects have the potential to cause social disorder.”⁷³ It painted a picture of a fragile multicultural society that could be plunged into “racial strife and violence”⁷⁴ when certain groups are offended.

⁶⁵Note J (*On the Chapter of Offences Relating to Religion and Caste*), in John Macpherson Macleod, Notes on the Report of the Indian Law Commissions on the Indian Penal Code (1848).

⁶⁶See Sing. Sedition Act.

⁶⁷The lack of a constitutional challenge could be because the law has never been actually invoked. It is also because the Singapore courts have adopted a narrow position on standing, requiring litigants to have either a private right implicated or to have suffered special damage where public rights are involved. Accordingly, there is little scope for public interest litigation in Singapore. See generally Tsun Hang Tey, *Limitations on public interest litigation in Singapore: Internalizing political ideology and institutionalizing judicial self-restraint*, in PUBLIC INTEREST LITIGATION IN ASIA (Po Jen Yap & Holning Lau, eds., 2010).

⁶⁸*Public Prosecutor v. Koh Song Huat Benjamin*, [2005] SGDC 272 [hereinafter *PP v. Koh Song Huat*].

⁶⁹*Id.* (emphasis added).

⁷⁰*Id.*

⁷¹See Sing. Sedition Act § 3(1)(e).

⁷²One had parodied the halal logo, placing it next to a pig’s head, and compared Islam to Satanism. Another put up a post entitled “The Second Holocaust,” advocating genocide against the Malays. A third individual was charged separately but on the same offense, having made a range of offensive remarks against the Malay-Muslim community, including comparing them to “rodents” and claiming that he wanted to blow up Muslim holy sites and that “the Malays must be eliminated before it is too late.” Chong Chee Kin, *2 Charged With Making Racist Remarks on Net*, STRAITS TIMES, Sept. 13, 2005; *Third Racist Blogger Sentenced to 24 Months Supervised Probation*, CHANNEL NEWS ASIA, Nov. 23, 2005; *Just 17, Hate Blogger Charged*, TODAY, Sept. 17, 2005.

⁷³*PP v. Koh Song Huat supra* note 68, at para. 7.

⁷⁴*Id.* at para. 9. Reference is often made to two racial/religious riots in pre-independence Singapore as cautionary tales for the need to closely regulate inter-religious, inter-racial relations.

Religious harmony thus serves as a rights-limiting norm, constraining even constitutional rights. Under the Singapore Constitution, freedom of religion and freedom of expression are protected fundamental liberties.⁷⁵ Notably, however, religious harmony does not appear in the text of the Singapore Constitution, but is instead implied, presumably, as part of public order which is in the constitutional text.⁷⁶ That religious harmony serves as a rights-limiting interest is further reflected in the government's statements justifying recent legislation regulating offensive speech and expression involving race and religion. In introducing the Protection from Online Falsehoods and Manipulation Bill in Parliament in April this year, the government stressed, among others, the need to combat fake news that threatens racial and religious harmony in Singapore.⁷⁷ The government has also suggested that religious leaders and religious groups have a common duty to help their congregations to detect and reject fake news.⁷⁸

To be clear, religious harmony is not always a rights-limiting norm. Under certain conditions, obligations to maintain religious harmony could also be rights-enhancing insofar as they result in the necessary conditions for individuals and groups to be able to exercise their rights freely and peaceably. There is a potentially mutually enhancing relationship between religious freedom and religious harmony. Not only can religious harmony set the preconditions for the exercise of rights, an argument can be made that fairly robust protection of religious freedom is necessary to ensure religious harmony. States may recognize that "allowing religious individuals and groups to profess and practice their religion is important to maintaining social peace and order."⁷⁹ Indeed, where religious harmony is presented as mutual obligations of accommodation, as could be the case where harmony is understood as a form of *complementariness*, it could result in low social hostilities and in turn higher levels of religious freedom.⁸⁰

III. Religious Harmony Underpinning State Policies

The constitutional framing of religious harmony as a regulating principle is not only present in law, but also in state narratives about policies. One example is the invocation of religious harmony to justify state prohibition of the headscarf—tudung or hijab—by students in public schools as well as in certain public sector jobs, such as in the police force or the military. This implicates the constitutional right to religious freedom. Such prohibitions are not unique to Singapore. France bans the wearing of all ostentatious religious symbols in public schools as well as the wearing of the face veil in public spaces.⁸¹ The German Constitutional Court has held a blanket headscarf ban for teachers in public schools unconstitutional, but some German states still impose such prohibitions supposedly invoking the exception permitted by the Court on ground of a "concrete danger,

⁷⁵Constitution of the Republic of Singapore, art. 15 and art. 14 respectively.

⁷⁶For a critique of the lack of a clear exposition on the public order exception to constitutional right to freedom of speech in the cases, see Jaclyn L. Neo, *Seditious in Singapore! Free Speech and the Offence of Promoting Ill-Will and Hostility Between Different Racial Groups*, SING. J. LEGAL STUD. 351 (2011).

⁷⁷Linette Lai, *New Law to Make Sites Accountable for Fake News*, STRAITS TIMES (Mar. 30, 2019), <https://www.straitstimes.com/singapore/new-law-to-make-sites-accountable-for-fake-news>.

⁷⁸Fabian Koh, *Religious Leaders 'Play Vital Role Fighting Fake News Online'*, STRAITS TIMES (Dec. 20, 2018), <https://www.straitstimes.com/singapore/religious-leaders-play-vital-role-fighting-fake-news-online>.

⁷⁹Neo, *supra* note 18.

⁸⁰In Singapore's context, see Barry Desker, *Guarding Singapore's Unique Religious Harmony; Republic's Landscape of Hard-Won Religious Freedom Needs Constant Maintenance*, STRAITS TIMES, Dec. 13, 2016.

⁸¹The French ban on the wearing of a face veil has been upheld by the European Court of Human Rights. See *SAS v. France*, 2014 III Eur. Ct. H.R. 341 (2014). For an overview of European jurisprudence on the veil, see Sitai Kalantry & Maithili Pradhan, *Veil Bans in the European Court of Human Rights*, 21(15) ASIL INSIGHTS (Dec. 12, 2017), <https://www.asil.org/insights/volume/21/issue/15/veil-bans-european-court-human-rights>.

or the disturbance of school peace.”⁸² In addition, Austria bans the wearing of the veil in public spaces and is seeking to ban children below ten from wearing the headscarf in public schools.⁸³

Different justifications have been provided for banning religious dress and symbols. Within Europe alone, one could identify three potentially overlapping reasons. The first is the need to preserve integration of immigrants. This is particularly salient in countries where religious dress is associated with immigrant communities, and therefore an insistence to wear religious dress reflects refusal to integrate into mainstream society.⁸⁴ A second reason is the need to preserve modern secular values and the secular state; in France, for instance, this is couched in terms of preserving French values under *laïcité*.⁸⁵ A third reason that has been raised in countries like Germany, for instance, is the need to prohibit certain forms of religious dress, particularly the veil, due to security concerns.

In contrast, Singapore has invoked religious harmony to justify such limitations on religious practice. What religious harmony allows is to ground the government’s appeal to religious groups to restrain their demands so as not to aggravate other communities.⁸⁶ The terms of religious harmony as a mutual obligation points to the need for each community not to be overly aggressive in asserting their rights as others may then counterclaim greater rights, which could then undermine their own rights. This idea of mutuality of obligations is framed under religious harmony terms. Thus, for instance, it is argued that if the Muslims were more assertive in seeking to be exempted from the current uniform rules, then the Christians may feel empowered to seek more space for religious proselytization, which tends to disproportionately anger the Muslim community.

Another manifestation of religious harmony in state policies links the support of religious harmony to the concept of a good citizen.⁸⁷ Here, the good citizen is one who upholds the value of collectivism and religious harmony.⁸⁸ This state narrative extends the law’s conception of religious harmony beyond a principle of order to a demand for *complementariness*. Thus, to be a good citizen is to prioritize religious harmony above individual and group religious commitments. Where needed, the good citizen is to refrain from certain religious activities in order not to threaten religious harmony. Such citizenship duties in upholding collectivism may contradict the religious commandments to proselytize or to fulfil other religious commitments. A good citizen may even be bound to prefer religious interpretations that are supportive of religious harmony. In Singapore, one manifestation of this is the articulation of the Singapore Muslim Identity (SMI) by the Islamic Religious Council (*Majlis Ugama Islam Singapura*), which is a state agency. The SMI identifies ten desired attributes, which includes a strong adherence to Islamic *principles*, which is “in harmony with society.”⁸⁹ Religious commitments are further required to be balanced against a commitment to pluralistic coexistence in which “good Muslims are also good citizens.”⁹⁰

⁸²Jeevan Vasagar, *German Court Strikes Down Headscarf Ban*, FINANCIAL TIMES (Mar. 13, 2015), <https://www.ft.com/content/bba9ff90-c96e-11e4-b2ef-00144feab7de>, Cf. *Berlin Court Bars Muslim Teacher From Wearing Headscarf*, BBC NEWS (May 9, 2018), <https://www.bbc.com/news/world-europe-44061723>.

⁸³*Austria Proposes Headscarf Ban for Girls Under 10*, BBC NEWS (Apr. 4, 2018), <https://www.bbc.com/news/world-europe-43646560>.

⁸⁴See, e.g., JOHN BOWEN, *WHY THE FRENCH DON’T LIKE HEADSCARVES: ISLAM, THE STATE, AND PUBLIC SPACE* (2007).

⁸⁵See, e.g., Patrick Weil, *Why the French Laïcité is Liberal*, 30(6) CARDOZO L. REV. 2699, 2699 (2009). Cf. CÉCILE LABORDE, *CRITICAL REPUBLICANISM: THE HIJAB CONTROVERSY AND POLITICAL PHILOSOPHY* (2008).

⁸⁶Robin Chan, *DPM Teo Responds to Calls on Hijab, Explains Need to Maintain Social Harmony*, STRAITS TIMES (Nov. 5, 2013), <https://www.straitstimes.com/singapore/dpm-teo-responds-to-calls-on-hijab-explains-need-to-maintain-social-harmony>.

⁸⁷In the instance of Singapore, see Charlene Tan, *Creating ‘Good Citizens’ and Maintaining Religious Harmony in Singapore*, 30 BRIT. J. RELIGIOUS EDUC. 133, 133 (2008).

⁸⁸*Id.* at 136.

⁸⁹Office of the Mufti, *Majlis Ugama Islam Singapura, Risalah for Building a Singapore Muslim Community of Excellence* (2nd ed. 2006), <https://www.muis.gov.sg/-/media/Files/OOM/Resources/Risalah-eng-lr.pdf>.

⁹⁰*Id.*

D. The Socialization of Religious Harmony Norms

The prevalence of religious harmony as a way to proscribe and prescribe conduct in Singapore may lend itself to the Naderian criticism that harmony essentially serves as a tool of state ideological control and coercion.⁹¹ Anthropologist Laura Nader coined the term “harmony ideology” to highlight harmony’s insidiously coercive force.⁹² In her studies, Nader identifies harmony as a rhetorical tool of control by colonials of the colonized, as well as a tool to control the disenfranchised in America. She argues that “coercive harmony” has been “a form of powerful control” partly because there is a “general acceptance of harmony as benign.”⁹³ As such, harmony talk imposes insidious influence and control over groups, particularly marginalized ones. At the same time, Nader argues that harmony as control may also be plainly coercive where it is supported by “statements about absolute power, threat of sanctions, reliance on modern authorities and intervention.”⁹⁴ In this regard, Nader argues that harmony should be scrutinized in relation to the construction of law.⁹⁵ As she puts it, “harmony coerced is freedom denied.”⁹⁶

Indeed, critics like Rajah argue that laws like the MRHA serves the purpose of policing religion and advancing authoritarian or semi-authoritarian control through the law.⁹⁷ However, as Beyer and Girke argue, the harmony as ideology critique overlooks that harmony itself is either part of social practice or has become part of social practice.⁹⁸ Harmony is not merely an “instrument used by state institutions to enforce civic obedience or to lock marginal communities out of a (probably overburdened) justice system.”⁹⁹ There is often a constancy to the claims made under the rubric of harmony, which suggests that it is more than just a convenient instrument of control. Harmony often underpins “practical features of everyday life”; it is “interactionally salient” and is not always externally induced.¹⁰⁰ Groups and individuals invoke harmony to explain and justify behavior, as well as to make claims upon one another. In this regard, harmony is often not only a state or legal norm but also a social norm.

Similarly, religious harmony could be a state ideology as well as a social norm, underpinning social practice. In fact, in Singapore, one might see the relationship between state law and social norms as interactionally constitutive.¹⁰¹ State law declares religious harmony to be of utmost value and sets the standards of appropriate behaviour necessary to maintain religious harmony. While this may start out as an imposed obligation, the persistence of the law often leads to a socialization and internalization of the values and content of the law. As Etzioni puts it, “internalization is a remarkable process through which imposed obligations (compliance with which must be forced or paid for) become desires.”¹⁰²

⁹¹Laura Nader, *Harmony Coerced is Freedom Denied*, in ANTHROPOLOGISTS IN THE PUBLIC SPHERE: SPEAKING OUT ON WAR, PEACE, AND AMERICAN POWER 252, 254 (Roberto J. Gonzalez ed., 2004) [hereinafter Nader, *Harmony Coerced*].

⁹²In her specific study of justice and courts in Zapotec mountain villages in Mexico, Nader identifies harmony ideology as a legal model that is used to “suppress peoples by socializing them toward conformity in colonial contexts.” Nader, *Coercive Harmony*, *supra* note 32, at 2.

⁹³Nader, *Coercive Harmony*, *supra* note 32, at 2.

⁹⁴See, e.g., LAUREL ROSE, *THE POLITICS OF HARMONY: LAND DISPUTE STRATEGIES IN SWAZILAND* 94 (1992).

⁹⁵Nader, *Coercive Harmony*, *supra* note 32, at 12.

⁹⁶Nader, *Harmony Coerced*, *supra* note 91, at 252. What is further fascinating is that Nader sees Americans as being more concerned about harmony than say, Europeans are.

⁹⁷Rajah calls this “authoritarian rule of law”: JOTHIE RAJAH, *AUTHORITARIAN RULE OF LAW: LEGISLATION, DISCOURSE, AND LEGITIMACY IN SINGAPORE* (2012).

⁹⁸Judith Beyer & Felix Girke, *Practicing Harmony Ideology: Ethnographic Reflections on Community and Coercion*, 21 *COMMON KNOWLEDGE* 196 (2015).

⁹⁹*Id.* at 233.

¹⁰⁰*Id.*

¹⁰¹As an example of an approach that sees law and social norms as co-evolving, see SHITONG QIAO, *CHINESE SMALL PROPERTY: THE CO-EVOLUTION OF LAW AND SOCIAL NORMS* (2017).

¹⁰²Amitai Etzioni, *Social Norms: Internalization, Persuasion, and History*, 34(1) *LAW & SOCIETY REV.* 157, 167 (2000).

The socialization and internalization process of law is a complex one, which is outside the scope of this article.¹⁰³ However, it seems uncontroversial to assume that law influences social behaviour and social norms. Carbonara points out that law can change the social meaning of given actions and behaviour; new “focal points” of attention to behaviour and expectations, and change preferences, prompting individuals to “internalize” the values embodied in the law.¹⁰⁴ Indeed, law has an expressive power that extends its influence beyond mere enforcement. As Sunstein emphasizes, in addition to direct control of behaviour through the imposition of sanctions, law’s power also lies also in the statements it makes about the importance and value of the subject of legislation.¹⁰⁵ In making those statements, law has the capacity to alter social norms.

Accordingly, in legislating on religious harmony, even giving it constitutional status, the Singapore government makes a “statement” affirming and strengthening the norms associated with religious harmony while rejecting and weakening norms seen to be threatening to religious harmony. It also creates a new “focal point” on religious harmony, thus focusing people’s attentions to certain aspects of behaviour among themselves, their groups, and others that are associated with religious harmony. The expressive power of the law is furthermore evidenced in the fact that the MRHA has never been invoked, but has had such widespread impact. The law serves the purpose of announcing a change or at least a surfacing of implicit norms, signalling to society, especially religious groups, the range and types of appropriate behaviour. Such laws, even while not enforced, could inculcate “the expectation of social opprobrium and, hence, shame in those who deviate from the announced norm.”¹⁰⁶ Thus, a law like the MRHA, particularly as it is buttressed by state narrative about religious harmony, helps to “reconstruct norms and the social meaning of action.”¹⁰⁷

Indeed, the constitutionalization of religious harmony has led to two interesting phenomena: First, the socialization of religious harmony claims among religious groups; and second, the transformation of such socialized religious harmony norms into demands placed upon the state.

I. Religious Harmony as an Inter-Group Claim

In June 2019, more than 250 religious organisations in Singapore signed on to a written Commitment to Safeguard Religious Harmony at the inaugural International Conference on Cohesive Societies. A high-powered event that drew religious and political leaders around the world,¹⁰⁸ the Conference was meant to be the interfaith equivalent of the Shangri-La Dialogue, a security conference attended by defence ministers and military chiefs from major world powers.¹⁰⁹ The Commitment, as well as the Conference, had clear government backing. It was drafted with the support of the National Steering Committee on Racial and Religious

¹⁰³The debate over socialization and internalization involve divergent views about the internal capacities of the individual and the external influence of the environment, as well as the relationship between the two. Scholarship on socialization in particular involve different models of the learning process. For a discussion and critique of the different models, see ELLEN S. COHN & SUSAN O. WHITE, *LEGAL SOCIALIZATION: A STUDY OF NORMS AND RULES* (1990); Robert D. Cooter, *Book Review: Against Legal Centralism*, 81 CALIFORNIA L. REV. 417 (1993); and TOM R. TYLER AND RICK TRINKNER, *WHY CHILDREN FOLLOW RULES: LEGAL SOCIALIZATION AND THE DEVELOPMENT OF LEGITIMACY* (2017).

¹⁰⁴Emanuela Carbonara, *Law and Social Norms*, in *THE OXFORD HANDBOOK OF LAW AND ECONOMICS: VOLUME 1: METHODOLOGY AND CONCEPTS* 466 (Francesco Parisi, ed., 2017).

¹⁰⁵Cass R. Sunstein, *On the Expressive Function of Law*, 144(5) U. OF PENN. L. REV. 2021 (1996).

¹⁰⁶*Id.* at 2031.

¹⁰⁷*Id.*

¹⁰⁸King Abdullah II of Jordan delivered the Keynote Address: Gwyneth Teo, *Risk to inter-faith harmony ‘single most important threat’ to the world now: Jordan king*, Channel News Asia (Jun. 20, 2019), <https://www.channelnewsasia.com/news/singapore/jordan-king-abdullah-singapore-keynote-religion-conference-11645750>.

¹⁰⁹Linette Lai, *International Conference on Cohesive Societies to discuss issues surrounding faith, identity and cohesion*, Straits Times (Jun. 19, 2019), <https://www.straitstimes.com/singapore/international-conference-on-cohesive-societies-to-discuss-issues-surrounding-faith>.

Harmony (a national platform comprising top level of community, government and faith leaders)¹¹⁰ and the Inter-Racial and Religious Confidence Circles (IRCC) (grassroots level inter-faith platforms formed to promote racial and religious harmony).¹¹¹ However, it was emphasized by the religious organizations that the Commitment is a ground-up initiative led by religious leaders. The Commitment takes as its starting point the need to uphold the constitutional guarantee of freedom of religion, and the right of every person to profess, practise, and propagate beliefs different from our own, including not having religious beliefs. It also stresses the need for active efforts to promote religious harmony, and links the promotion of religious harmony with “peace, prosperity, and progress”.¹¹²

This 2019 Commitment to Safeguard Religious Harmony builds on the 2003 Declaration of Religious Harmony, adopted earlier by a non-governmental interfaith organization, the Inter-Religious Organization of Singapore (IRO), which was founded with the support of religious leaders and religious organizations.¹¹³ The 2003 Declaration similarly had government support; the initial draft Code on Religious Harmony was put together by a group of Members of Parliament.¹¹⁴ The IRO later took over the drafting and conceptualization, refining it before it was adopted by various religious groups. The Declaration has come to be central to the IRO’s inter-faith efforts, with religious harmony becoming both a regulating as well as legitimating principle in interfaith, inter-religious cooperation in Singapore. The Declaration clearly sketches out religious harmony as an existential matter, as being “vital for peace, progress and prosperity in our multi-racial and multi-religious Nation.”¹¹⁵ Accordingly, religious harmony imposes five obligations upon the religious groups, namely to: “recognise the secular nature of our State”; “promote cohesion within our society”; “respect each other’s freedom of religion”; “grow our common space while respecting our diversity” and “foster inter-religious communications.”¹¹⁶

The commitments in the Declaration of Religious Harmony impose strong obligations on religious groups to prioritize social cohesion and mutual respect over their religious obligations that may have exclusivist tendencies. The Declaration makes the maintenance of religious harmony a group obligation, rather than strictly a state-imposed form of control. While the IRO has strong connections to the government, it has not always acceded to top-down processes or state cooptation or agreed to claims of strict separation of politics and religion.¹¹⁷ Religious leaders connected with the IRO have, for instance, raised objections to the MRHA’s purported bright line delineation of religion and politics.¹¹⁸ Indeed, the IRO’s legitimacy as a promoter of religious harmony, as well as mediator and conciliator among different groups is tied to its status as endorsed but not part of the state apparatus.

As indicated earlier, it is not possible in this article to examine the causative relationship between state laws, including the MRHA, and the internalization of religious harmony among religious groups. It is nonetheless plausible that state laws and policies have had an expressive effect in socializing religious groups to the regulating principle of religious harmony. In this

¹¹⁰Ministry of Culture, Community, and Youth, *National Steering Committee on Racial and Religious Harmony* (2019), <https://www.mccy.gov.sg/sector/initiatives/national-steering-committee-on-racial-and-religious-harmony>

¹¹¹Inter-Racial and Religious Confidence Circles (IRCCs), *About Us*, <https://www.ircc.sg/ABOUT%20IRCC>.

¹¹²Melody Zaccheus, *More than 250 religious organisations commit to safeguard religious harmony*, Straits Times (Jun. 19, 2019), <https://www.straitstimes.com/singapore/250-religious-groups-make-commitment-with-practical-suggestions-to-safeguard-religious>.

¹¹³For a closer examination of the organization, see Lai Ah Eng, *The Inter-religious Organization of Singapore*, in *RELIGIOUS DIVERSITY IN SINGAPORE* 605 (Lai Ah Eng ed., 2008).

¹¹⁴Ministry of Social and Family Development, *Declaration on Religious Harmony* (2014), <http://app.msf.gov.sg/Policies/Archived-Topics/Caring-and-Active-Engagement/Promoting-Community-Involvement/Community-Relations-Social-Harmony/Declaration-on-Religious-Harmony#sthash.LXnKCiW9.dpuf>.

¹¹⁵*Id.*

¹¹⁶*Id.*

¹¹⁷Lai, *supra* note 113, at 625.

¹¹⁸Sinha, *supra* note 52.

regard, it is interesting to note that the term “religious harmony” did not appear in the IRO’s initial mission statement. This initial statement had merely explained that the organization served to “inculcate the spirit of friendship and co-operation among the leaders and followers of different religions,” as well as to “promote mutual respect, assistance and protection among the adherents of different religions.”¹¹⁹ It was only later that the term ‘religious harmony’ became a central part of the IRO’s discourse. This internalization of religious harmony serves to legitimate inter-faith dialogue and cooperation in Singapore, and to counter exclusivist positions rejecting inter-faith dialogue and cooperation. Interfaith, inter-religious dialogue and cooperation are by no means universally accepted among religious groups. For some religions that make exclusive claims to the truth, inter-religious cooperation may be seen as contrary to their religious teachings. Furthermore, religious groups may be open to cooperating with some religious groups but may reject others. For instance, a religious group may refuse to cooperate with another group if that group is seen within that religious tradition as a heretical or deviant sect. Religious harmony thus intervenes to legitimate interfaith activities by providing a normative basis for cooperation. Such cooperation may further be couched in pragmatic terms as necessary to ensure inter-religious harmony for the greater good.

At the same time, internalization of religious harmony means that it is also used as a mutually constraining obligation, as groups invoke it to make demands on other groups to refrain from certain activities. Demands for harmony may serve to delegitimize any fundamental criticism of the social order.¹²⁰ In this regard, it has been observed that “religious switching” could be seen as possibly disrupting the status quo and threatening religious harmony.¹²¹ Religious propagation and proselytization is protected as part of the constitutional right to religious freedom under Article 15 of the Singapore Constitution and has been argued to also be part of the right to freedom of speech,¹²² but religious proselytization has been argued as possibly creating a public order threat as it affects religious harmony among different groups. It is hard to determine whether the danger lies in the manner of proselytization, the efficacy of proselytization, or both. Part of the criticism appears to be directed at both the manner and effects of proselytization. Disapproval is targeted at attempts to convert a person to a different religion by “denigrating his religion” and from aggressive proselytization.

The socialization and internalization of religious harmony among religious groups expands the idea of religious harmony from one of order to one of *complementariness*. While the legal principle of religious harmony as order tends to impose minimal, though significant, demands on individuals and groups to avoid conduct that could result in disruptions to public order, religious harmony as a social norm tends to require groups and individuals to modify their behavior in a more active manner. After all, harmony as order could be maintained through merely “passive tolerance of visible and recognisable differences,” and “without encouraging cultural exchanges, deep understandings and cultural boundary-crossings” which is necessary for a deeper sense of solidarity.¹²³ Harmony as complementariness requires more than just passive tolerance. One can see such stronger demands in the text of the 2019 Commitment to Safeguard Religious Harmony. In stressing strong interfaith bonds and respectful interaction among different religions as key to religious harmony, the Commitment describes a range of practical action necessary for religious harmony. This includes offering to help others of different faiths especially at times of crisis, offering non-religious commercial services to all regardless of faith, and allowing others space to profess their faiths and to profess faiths in respectful and sensitive manner. The

¹¹⁹*Id.* at 608.

¹²⁰Beyer & Girke, *supra* note 98, at 231.

¹²¹Thio Li-ann, *Contentious Liberty: Regulating Religious Propagation in a Religiously Diverse Secular Democracy*, SING. LEGAL STUD. J. 484, 488 (2010).

¹²²*Id.* at 490.

¹²³Chua Beng Huat, *Being Chinese Under Official Multiculturalism in Singapore*, 10(3) ASIAN ETHNICITY 239, 245 (2009).

Commitment also addresses some divisive issues that have arisen in Singapore and elsewhere, which relates to practical everyday interactions among persons of different religions. It states that religious harmony is safeguarded when people eat together even if there are different religious dietary requirements and practices,¹²⁴ express good wishes for and attending each other's festival celebrations,¹²⁵ and attend life events of those of different faiths including weddings and funerals.

The Commitment clearly seeks to expand the principle of religious harmony into the everyday life of religious groups. What is interesting is the degree of acceptance among many religious groups in Singapore. While one can point to this being a manifestation of imposed ideology in an authoritarian or semi-authoritarian state, this would overlook the degree to which religious harmony is part of social practice that is congruent, or at least not incongruent, with existing social norms. After all, it is widely accepted that laws and social norms can have a mutually reinforcing relationship such that law is more effective if it is not too incongruent with existing social norms. Furthermore, strong social norms reduce the burden on law enforcement.¹²⁶ Social norms are sometimes more effective constraints on behaviour than law.¹²⁷ As a social norm, religious harmony serves to constrain individual and group behaviour but also to demand other groups to constrain their behaviour for the greater good of religious harmony. This fits into Ellickson's seminal 1991 study, which posits that members of tight social groups will tend to informally encourage each other to engage in cooperative behaviour that serves the general welfare.¹²⁸ In Singapore's communitarian society, religious harmony has become both a legal principle and social norm that shapes and constrains religious behaviour over a whole range of issues, from the seemingly banal over social eating to the very important such as religious proselytization. These demands take place within the framework of state laws, but occurs without direct employment of state power. Religious harmony has therefore, in terms identified by Beyer and Girke, become part of the practical features of everyday life in Singapore.

II. Transformation of Religious Harmony into a State Obligation

The second phenomenon, and even more fascinating, is the transformation of religious harmony norms into state obligations. This is a reversal of state-society relations, whereby religious harmony frames demands on the government to undertake certain actions to preserve harmony. In this way, religious harmony is no longer used only to justify state control of individuals and groups but is used also by individuals and groups to control government. In a society committed to religious harmony as a constitutional norm, groups may demand for governmental action on the basis that religious harmony is affected when the government fails to protect a religious group from offensive conduct by other groups. In Singapore, several incidents demonstrate how religious harmony has become a bottom-up demand, whereby the community or society makes demands of the state on the basis of advancing or maintaining harmony. Here, I highlight two distinctive types of contestation— one involving claims upon religious groups and another involving non-religious groups.

¹²⁴See e.g. the debate that came up in 2016 in Singapore: *Muslims may not eat all food offered by non-Muslims*, Independent SG (May 21, 2016), <http://theindependent.sg/muslims-may-not-eat-all-food-offered-by-non-muslims/>.

¹²⁵For example, in Malaysia, there is an ongoing debate as to whether Muslims are 'allowed' to say Merry Christmas: Prem Kumar, *Saying 'Merry Christmas' only a greeting to Christians, FT mufti tells Muslims*, Malay Mail (Dec. 5, 2018), <https://www.malaymail.com/news/malaysia/2018/12/05/saying-merry-christmas-only-a-greeting-to-christians-ft-mufti-tells-muslims/1700250>. This strict refusal to wish persons of other religions has also been observed in Singapore: K. Shanmugam, *Religion, terrorism and threats to Singapore, the region*, Straits Times (Jan. 20, 2016), <https://www.straitstimes.com/opinion/religion-terrorism-and-threats-to-singapore-the-region>.

¹²⁶Etzioni, *supra* note 102, at 159.

¹²⁷Tracey Meares, *Drugs: It's a Question of Connections*, 31 VALPARAISO REV. 579, 594 (1997).

¹²⁸ROBERT ELICKSON, ORDER WITHOUT LAW, 167 (1991).

The employment of religious harmony against other religious groups was seen in the case of *Ong Kian Cheong v. Public Prosecutor*.¹²⁹ There, the evangelism efforts of the Protestant Christian couple was deemed by their Muslim recipients to be offensive. One witness said that he found the efforts materially offensive “because it could provoke or incite racial hatred,”¹³⁰ while another said that he objected to the publications because they “could incite religious tension between Muslims and Christians.”¹³¹ Another witness testified that she was angered by the tracts as they denigrated Islam and said that the publication could have caused ill will between Muslims and Christians.¹³² The filing of police reports about such offensive content becomes a way for individuals and groups to demand state action to, supposedly, restore religious harmony.

Such demands on the state do not always result in criminal sanctions. Another incident reflects how individual and group demands for state action could be resolved in a public, but non-judicial, manner. In what is now known as the Lighthouse Church incident, complaints were made to the government when the video of a pastor of an evangelical church in Singapore mocking Buddhism and Taoism was publicized. In response, a government spokesman said that the pastor’s comments were “highly inappropriate and unacceptable as they trivialised and insulted the beliefs of Buddhists and Taoists.” But more importantly, the government declared that such statements could “give rise to tension and conflict between the Buddhist/Taoist and Christian communities”¹³³ which could threaten religious harmony. In response, the pastor issued a public apology, expressing his “deepest apologies and remorse” that his comments had “saddened and hurt” Buddhists and Taoists and urging his members to “respect other beliefs and not to ridicule them in any way, shape or fashion” so as to “build a harmonious Singapore.”¹³⁴ Repeated emphasis was placed on religious harmony, the need to refrain from criticizing other religions, and the need to uphold it in order to promote “peace, unity and true freedom.”¹³⁵

George has suggested that these competing claims have to be examined more critically. In particular, he argues that religious offense has been used to legitimize one side in the contestation over certain social-political interests. Using the term “hate spin,” he identifies the deliberate manufacturing of indignation, whereby certain persons exploit group identities to “mobilize supporters and coerce opponents.”¹³⁶ Seeing hate spin as the other side of hate speech, George argues that hate spin entails calling the opposing group offensive and of accusing them of engaging in hate speech. As George puts it, hate spin contains the same elements that characterize classic hate speech: “Deep intolerance of difference; vilification of group identities; appeals to an in-group; and mob action oppressing a target group.”¹³⁷ By adopting a victim or persecution posture, hate spinners are able to delegitimize their opponents’ position while at the same time legitimizing their own attacks on them. In this context, religious harmony has become a key talking point to frame the claims by groups offended by speech and acts by others, as well as in demanding that the government retract or make certain decisions in order to pacify these groups. I do not here discount the fact that groups may be genuinely aggrieved and offended. Indeed, some offensive speech could very well amount to incitement to violence or to undermine the dignity of the subject of speech. I also do not take the position that all forms of protestations are manufactured hate

¹²⁹[2009] SGDC 163.

¹³⁰*Id.* at para. 10.

¹³¹*Id.* at para 11.

¹³²*Id.* at para 13.

¹³³MHA Statement in Response to Media Queries on the Lighthouse Evangelism Videos and Comments Made By Pastor Rony Tan of Lighthouse Evangelism, ASIAONE, Feb. 8, 2010.

¹³⁴Pastor Makes Personal Apology, TODAY, Feb. 10, 2010.

¹³⁵*Pastor: I've Let Many People Down*, ASIAONE (Feb. 16, 2010), <https://www.asiaone.com/News/AsiaOne%2BNews/Singapore/Story/A1Story20100216-198847.html>.

¹³⁶Cherian George, *Hate Spin: The Twin Political Strategies of Religious Incitement and Offense-Taking*, 27(2) COMM. THEORY 156, 156 (2017).

¹³⁷*Id.*

spin. Nonetheless, there appears to be some evidence that the discourse on harmony has, at some level, supported a “culture of offendedness”.¹³⁸

The incidents so far discussed tend to involve inter-religious disagreement. An emerging area of conflict, however, involves religious versus nonreligious or secularist segments of society. Statistics show that the segment of Singaporean society that does not identify with any religion—the religious “nones”—is increasing.¹³⁹ In this context, religious versus secularist disagreements may dominate social discourse to a greater extent in the future. One such disagreement arose when the Singapore government cancelled the concert by Swedish black metal band Watain after receiving reports and complaints from Christians who objected to the band’s lyrics and beliefs that “denigrate Christianity in a seriously offensive manner.”¹⁴⁰ The band had earlier received approval to stage the concert but with certain restrictions, including a restricted classification and a commitment not to stage “potentially sensitive songs” or ritualistic or satanic acts. The use of religious symbols during the concert was also not allowed, and there would be no references to religion.¹⁴¹ Following complaints and an online petition against the concert, however, the government cancelled the concert on the basis that it would be against Singapore’s “public order interest,”¹⁴² as the band’s history of denigrating religions and promoting violence has the “potential to cause enmity and disrupt Singapore’s social harmony.”¹⁴³ In particular, it explained that Watain has a history of being “very offensive towards Christians, Jews, supportive of violence, including encouraging the burning of churches.”¹⁴⁴ This decision prompted a degree of cynicism, with a survey showing that one-third of respondents disagreed with the government’s decision to cancel the concert.¹⁴⁵

These incidents demonstrate that religious harmony is not merely a matter of vertical relationship between the coercive state, on the one hand, and the subordinated and passive society, community, and/or individual, on the other. Indeed, Beyer and Girke criticism of harmony ideology is that it potentially overlooks or even denies the agency of society, community, and/or the individual in also strategically transforming the meaning of harmony and coopting the concept in advancing their own dynamics of control.¹⁴⁶ Beyer and Girke suggest that the practice of harmony is in fact “coemergent.”¹⁴⁷ Furthermore, as they observe, when people invoke the term harmony, they “claim authority over its correct attribution to specific social and political situations.”¹⁴⁸ In other words, there is contestation over the use of the term and, through that contestation, over certain values in society. What is of concern is that these claims by religious individuals and groups for state action against those they accuse of being ‘threats’ to religious harmony advances an idea of harmony that is closer to that of *uniformity*. Subjugation of individual or smaller group interests is supported not only by the state but pursued by other groups. Harmony as uniformity may also perpetuate existing social hierarchy whereby those who criticize this hierarchy would be

¹³⁸*Id.*

¹³⁹Siau Ming En, *Greater Number of Singaporeans Not Identifying with Any Religion*, TODAY (Mar. 9, 2016), <https://www.todayonline.com/singapore/more-spore-residents-not-identifying-themselves-any-religion-general-household-survey-2015>.

¹⁴⁰Louisa Tang, *Many Christians Were ‘Very Concerned and Offended’: Shanmugam Explains Reversal of Decision Over Metal Band Concert*, TODAY ONLINE (Apr. 1, 2019), <https://www.todayonline.com/singapore/watain-ban-mha-reversed-decision-allow-gig-after-reports-christians-being-concerned-and>.

¹⁴¹*Id.*

¹⁴²*Black-Metal band Watain’s Gig Cancelled, After MHA Raised Security Concerns*, TODAY ONLINE (Mar. 7, 2019), <https://www.todayonline.com/singapore/black-metal-band-watains-gig-cancelled-after-mha-raised-security-concerns>.

¹⁴³*Id.*

¹⁴⁴*Id.*

¹⁴⁵Eddino Abdul Hadi, *Parliament: Two Out of Three Singaporeans Back Government’s Move to Cancel Watain Concert*, STRAITS TIMES (Apr. 1, 2019), <https://www.straitstimes.com/politics/singapolitics/parliament-two-out-of-three-singaporeans-back-governments-move-to-cancel>.

¹⁴⁶Beyer and Girke, *supra* note 98.

¹⁴⁷*Id.* at 218.

¹⁴⁸*Id.* at 219.

criticized as creating disharmony.¹⁴⁹ Chua has argued that harmony is “politically, a repressive device for pre-empting public debates and negotiations that obstruct possible resolutions to the sort of issues that commonly plague a multiracial society.”¹⁵⁰ This can lead to a situation where difficult issues including those concerning social equality are not addressed but left to simmer under the surface, undermining the social resilience of a religiously diverse society.

E. Conclusion

In the last few months, the Singapore government announced new changes to the MRHA that it states would empower it to deal with new threats to religious harmony in a more “comprehensive and timely manner.”¹⁵¹ As at the time of completion of this article, the exact changes had not yet been announced. What is particularly significant for the purposes of the arguments made in this article is that the government was careful to emphasize that it had consulted widely with religious leaders in Singapore.¹⁵² This state-society cooperation has become a crucial pillar for the success of religious harmony as a regulating principle in law and society. The examination of the practice of religious harmony in Singapore shows how harmony could be both a legal and social norm. It shows that religious harmony a multidimensional concept grounded in a variety of legal, political, and social obligations, not just on individuals and groups but also on the state. The extent to which religious harmony could be a useful model to manage religious pluralism, however, needs to be examined contextually, as different jurisdictions may need to calibrate their approaches according to their specific histories, religious demography, and even geographical size. Certain generalizations could be made from the Singapore practice, but it is important to note that these practices take place within the context of a religiously diverse society with no clear religious majority. It is also a non-liberal, communitarian, secular form of government in a small island-state. Nonetheless, as this Article demonstrates, the multidimensional claims of religious harmony provide certain advantages for the management of religious plurality, and these lessons from Singapore could hopefully spark off greater reflection over the search for regulating principles and modes of governance in countries around the world to better manage their own inter-religious relations.

¹⁴⁹This debate concerning social hierarchy has emerged in Singapore with respect to race, whereby the idea of Chinese privilege has become a source of contentious disagreement. These issues were again surfaced in a recent controversy over ‘brownface’ and casual racism in Singapore. See e.g. Ruby Thiagarajan, *Brownface and Racism in Singapore*, NEW NARATIF (Aug. 1, 2019), <https://newnaratif.com/journalism/brownface-and-racism-in-singapore/>; and contrast: Adrian Lim, *Allowing offensive rap video calling out ‘brownface’ ad would worsen racism: Shanmugam*, STRAITS TIMES (Aug 22, 2019), <https://www.straitstimes.com/politics/allowing-offensive-rap-video-calling-out-brownface-would-worsen-racism-shanmugam>.

¹⁵⁰Chua, *supra* note 122, at 245.

¹⁵¹Adrian Lim, *Changes to 30-year-old religious harmony law to be introduced in Parliament next week: PM Lee Hsien Loong*, STRAITS TIMES (Aug. 26, 2019), <https://www.straitstimes.com/politics/changes-to-30-year-old-religious-harmony-law-to-be-introduced-in-parliament-next-week-pm>.

¹⁵²*Id.* See also Tham Yuen-C, *Singapore to update law on religious harmony to address spread of hate speech, identity politics*, STRAITS TIMES (Jul. 24, 2019), <https://www.straitstimes.com/singapore/singapore-to-update-maintenance-of-religious-harmony-act-shanmugam>.