Introduction

Secularization as a constituting characteristic of modernity has been a common theme in the works of the founding fathers of the discipline of sociology, who analyzed the social transformation of Western Europe in the nineteenth and early twentieth centuries. In the present, classical secularization theory, assuming a homogeneous trajectory towards a universal modernity of a Western European pattern, has long been abandoned. But the assumption of a functional differentiation in modernity—between politics, the economy, and religion—remains an accepted core of the secularization thesis (e.g. Gorski 2000, pp. 140, 142; Casanova 2006, p. 12). It is also generally accepted that this process of differentiation against the background of diverse cultural foundations and sociohistorical developments resulted in a multitude of secularisms rather than in a universal differentiation between the secular and the sacred. Naturally, both in-depth country studies as well as cross-country comparisons have largely concentrated on the relationship between state and religion. What the various formations of state-religion relations in modernity have in common is that the differentiation between the religious and the secular sphere did not result in their equality. Rather, in modernity, the religious sphere is subordinated to the secular state. Nationally legitimized legislatures decide where exactly the wall separating church and state runs, and secular courts interpret the details of such instructions (Agrama 2010, p. 503). Much less attention has been given to the differentiation between the religious and the economic sphere in modernity, however.

But religious institutions have always been economic enterprises. To build and maintain sacred sites and train and employ doctrinal or ritual specialists, religious organizations around the globe often own and manage substantial estates, receive donations or collect fees for religious services from the faithful or outright taxes them; all while being independent of the taxing power of worldly authorities. In fact, temples in ancient Mesopotamia are among the very oldest entities of which accounting records are known (Hudson 2000, p. 2).
In the present, religious organizations with enormous economic influence remain. In Germany, for example, the Catholic and Lutheran Churches with their non-profit and for-profit enterprises are regarded as the second-largest employer after the state itself (Braun 2017). Religious organizations collect enormous sums from their members through donations and the collection of fees, while being usually tax-exempt. In the United States, missionary organizations collected donations amounting to over US$1 billion in 2017 alone. The Salvation Army, as the largest religiously motivated charity in the United States, collected in the same year close to US$2 billion (Barrett 2017).

These observations raise several questions regarding the nature of the separation of the religious and the economic sphere. Due to the realization of the existence of a multitude of secularisms around the world, these questions appear to be best approached comparatively. Such comparative investigations are necessarily limited in scope, especially so, when endeavored in the form of a book chapter. This chapter will compare the involvement of religious organizations in the economic sphere in France, Germany, Japan, Thailand, Turkey, and the United States. While these countries vary significantly in their religious backgrounds, their economic development and the historical development of state-religion relations, they all have two things in common, which promise their comparison to be permissible. First, all of the countries are secular states. Their legislatures are nationally and not religiously legitimized, and with the exception of Thailand all legislatures are fully elected. Furthermore, none of the three branches of state powers is subordinated to religious institutions. Second, all of the countries included in this comparison are free-market economies, an obvious requirement for a meaningful comparison of the economic activities of religious organizations.

Context, state of the art, concepts, and methods

The involvement of religious organizations in the secular economic sphere and the differences in state-religion relations even among stable liberal democracies are readily observable (see Monsma and Soper 2009). But what differences are discernible between different secularisms in regard to the differentiation between the economic and religious spheres?

While there does not appear to exist a cross-country comparison to date, there does exist a large body of literature, consisting of both comparative and in-depth country studies, which can be adopted for such a comparison. Monsma and Soper (2009) have included in their comparison of state-religion relations of five Western democracies the issues of state-support for religious schools and non-profit organizations (pp. 222–231), while Göçmen (2013) has investigated the role of faith-based non-profit organizations in the welfare system of four Western European countries in addition to a more detailed study of such organizations in Turkey (Göçmen 2014). The accounting rules and practices of religious institutions have been the focus of selected accounting researchers with country-specific or religion-specific focus (e.g. Wolf 2014). Additionally there are publications dealing with accounting and taxation questions from a practitioner’s perspective, often published by accounting firms (e.g. Tanaka 2015). Finally, the actual law codes and treaties stipulating the rules regarding the economic activities of religious organizations must be consulted.

This chapter will address the following questions regarding the regulation of economic activities of religious organizations by secular authorities as a starting point for such comparisons:
1. For religious organizations to enter the secular-economic sphere, a judicial personality is necessary. What kind of judicial personality can they adopt in the countries under investigation here and what kind of economic activities are they permitted to engage in?
2. If incorporated religious organizations engage in economic activities, how are they taxed?
3. Must religious organizations keep accounts and are they supervised or audited by secular authorities?
4. Are donations to religious organizations encouraged by allowing their deduction from taxable income by individuals and businesses?

Substantive discussion

This section will provide an overview of the countries under discussion in alphabetical order. I will afterwards attempt to draw some broad conclusions.

France

France is, together with Turkey, the only country discussed here which is explicitly defined as secular. According to Article 1 of the constitution of the French Republic, secularism (laicism) is a constitutive principle of the republic. The interpretation of this principle is provided by the 1905 Law on the Separation of the Churches and the State. The two articles forming the first part of the law establishes the interconnected principles of state neutrality and the freedom of religion. French secularism is therefore according to Kuru (2009) an ‘assertive’ one (p. 11). The state does not only not recognize, fund or otherwise support religious organizations (Art. 2), but also bans from the public any religious symbols (Art. 28) and prohibits the use of religious facilities for political purposes (Art. 26). This exclusion of the religious from the public is enforced by the state.

Drawing on the examples of France and Turkey, Kuru (2009) argues that assertive secularism is the historical outcome of the victory of republican elites over religiously legitimized ancien régimes supported by a clerical establishment (Kuru 2009, p. 14). The strict exclusion of religion from the public sphere was considered necessary for the stability of the new regime. In France, the law of 1905 concluded a protracted process of secularization of the French state against the background of social polarization between Catholic-royalists and secular-republicans over the last decades of the nineteenth century. The loss of authority of the Catholic Church through the Dreyfus affair and its support of the Vichy regime entrenched Republican laicism over the course of the twentieth century (Kuru 2009, pp. 153–4).

According to the law of 1905, religious organizations can incorporate as ‘worship associations’ (associations pour l’exercice des cultes, associations cultuelles). They are thus a particular form of the general association under the 1901 Law on Associations (Art. 5). They are recognized as non-profit associations, but their activities are ‘exclusively’ restricted to the ‘exercise of worship’ (Art. 19). Economic activities, including non-profit and charitable services, have to be performed by legally distinct and secular entities, for which the same regulations apply as for other businesses or non-profit organizations. The 1905 Law on the Separation of the Churches and the State stipulates that worship associations must prepare annual accounts. They are supervised, as are all associations, by the Ministry of Finance and the Inspectorate General of Finances (Art. 21). Accounting rules for associations have been

While the law bars the French state from supporting worship associations directly, the French tax code (Code Général des Impôts) encourages both individuals and corporations to donate to them. In both cases donations can be deducted from taxable income with certain limitations (Art. 200–1e and Art. 238 bis).

**Germany**

Similar to France, the contemporary structure of German secularism can be traced to the early twentieth century. State-religion relations take, however, a markedly different shape east of the Rhine. German secularism can be considered the outcome of a compromise made at the time of the foundation of the Weimar Republic in 1919 after the end of World War I. In the German empire founded in 1871, the main churches, the Catholic Church and the Lutheran state-churches, were recognized as public corporations (Körperschaften öffentlichen Rechts) and closely intertwined with the state. Princely heads of state of the member states of the empire were also the heads of the Lutheran churches. For the enactment of the new and republican constitution in 1919, the Social-Democrat Party as the largest faction had to rely on the support of the Catholic Center Party. The result was a compromise regarding the role of religion in the new republic (Deutsch 1963, p. 462).

The constitution of the Weimar Republic rejected the establishment of a state-church and enshrined the freedom of religion. At the same time, however, the churches maintained their public role and elevated status as public corporations and were explicitly allowed to perform services in public institutions (Art. 135–41). To guarantee the neutrality of the state in the face of the acceptance of a public role of the main churches, all religious communities were now granted the right to acquire this status. This compromise was maintained after World War II and incorporated into the Basic Law of the Federal Republic of Germany, which explicitly refers to the Weimar Constitution (Art. 140 in conjunction with Art. 137 of the Weimar Constitution).

The status of religious bodies as public corporations produces two important legal consequences. First, religious public corporations are entitled to manage their internal affairs within the frame of laws applicable to all. In contrast to France, there is no requirement to keep accounts imposed on the religious corporations by the secular state, neither are its internal financial dealings supervised by state organs (Wolf 2014, pp. 27–30). Second, according to the German Corporate Income Tax Act, only the income derived from business activities is subject to corporate income tax (Art. 1(1) 6).

German religious public corporations are entitled to have the tax authorities collect a church tax from their members on their behalf. Due to their recognition as pursuing charitable objectives under the German Fiscal Code (Art. 52–4) and to guarantee the neutrality of the states, the Income Tax Act allows individuals to deduct church tax paid from their taxable income making it comparable to a donation from a tax perspective. Additional donations can similarly be deducted up to a certain degree (Art. 10(1) 4 in conjunction with Art. 10B (1) 1, 2). The Corporate Income Tax Act grants the same right to corporations (Art. 9(1) 2).

Representatives of religious corporations are not legally barred from giving explicit recommendations before elections, but usually chose not to do so. This has changed recently due to the rise of a far-right party, the Alternative für Deutschland. Before the general election of 2017, Catholic bishops have given a recommendation by stating that the party’s policies
were incompatible with Christian values \cite{Frankfurter Allgemeine Zeitung, 9 March 2017}. After the election a high-ranking official of the Lutheran Church recommended Protestant members of the Social-Democrat Party to vote in favor of continuing the grand coalition with the conservative Christian Democratic Union \cite{Kamann 2018}.

\textbf{Japan}

When Japan was integrated into the world economy though a series of unequal treaties in the mid-19th century, Christianity together with some Buddhist sects had been outlawed for over 200 years. The ruling elite of the Meiji Restoration, who oversaw the country’s rapid modernization, shared with their feudal predecessors a mistrust of missionary activities and the need to control the hearts and minds of the population for their nation-building project to be successful. At the same time, they were made aware that only granting the freedom of religion would allow for a renegotiation of the unequal treaties signed with the colonial powers and the country’s recognition as an equal member of the international community. The compromise, on which the Empire of Japan was founded, created a dual structure of the relationship between state and religion. The Constitution of the Great Empire of Japan granted the full freedom of faith. At the same time, however, the ritual participation in the cult of the emperor and the imperial ancestors at schools and state-shrines was defined as a non-religious duty for all subjects \cite{Shimazono 2010}.

At present, relations between the Japanese state and religious communities are governed by the \textit{Constitution of Japan} \cite{1947} and the \textit{Religious Corporations Act} \cite{1951}. These two documents were enacted during the US occupation of Japan and reflect the authorities’ desire to disestablish the ideological foundations of the pre-war emperor system or State Shinto. Therefore, an influence of the First Amendment to the United States Constitution is apparent in Art. 20 of the \textit{Constitution of Japan}, which similarly bars the state from engaging in religious activities directly, supporting religious organizations or offering religious education. But this article also prohibits religious organizations from exercising political authority of any kind.

There has been consistent criticism of the lack of financial oversight over religious corporations since the end of the US occupation of Japan. Criticism intensified when new tax revenue was sought and intensified audits revealed in the 1980s that religious corporations were not always truthful about their accounts \cite[p. 153]{Covell 2005}. But only after the terror attack by the Aum Shinrikyo cult in 1995 was there sufficient political support for a revision of the \textit{Religious Corporations Act} in 1997, which strengthened state oversight and disclosure requirements \cite{Mullins 1997}.

The \textit{Religious Corporations Act} allows for the incorporation of religious organizations as a religious corporation (\textit{shūkyō hōjin}). Such religious corporations are recognized as non-profit organizations and are therefore exempt from taxation of their income derived from donations and payments for religious services. They may engage directly in business activities to support themselves, but such income is subject to taxation according to the \textit{Religious Corporations Act} \cite[Art. (6(2))] and \textit{Corporation Tax Act} \cite[Art. 4]{Corporation Tax Act}. Japanese tax law provides a list of activities, which will necessarily be considered as taxable business activities \cite[pp. 190–3]{Tanaka et al., 2014}. Donations to religious corporations by both individuals and corporations are not tax-deductible, as the tax-exempt status of a non-profit organization does not translate automatically into this benefit for donors.

Religious corporations have to prepare detailed financial statements and make them available upon request to officials of the Ministry of Culture as well as interested members of the public. The \textit{Committee on Non-Profit Organizations of the Japanese Institute of Certified
Public Accountants issued in 2001 detailed guidelines for the preparation of these accounts (Nihon Kōnin Kaikeishi Kyōkai, Hieiri Hōjin no Iinkai 2001).

Thailand

Like Japan, Thailand—then known as Siam—was integrated into the global economy in the mid-nineteenth century through the treaty system of informal colonialism. For the Southeast Asian kingdom’s monarchs, reforming, centralizing and bringing under state-control Theravada Buddhism became an integral part of their project to build a modern nation-state governed as an absolute monarchy. While the absolute monarchy fell to a military coup in 1932, Buddhism remains closely intertwined with official national identity and legitimacy of political leaders (Ishii 1986).

Nevertheless, Thailand can be regarded as a secular state. The current constitution enacted in 2017 following a military coup in 2014 recognizes the Thai people as sovereign and acknowledges their religious diversity. The document enshrines the freedom of religion (Art. 27, 31). While the King must be Buddhist, he is also the ‘upholder of all religions’ (Art. 7). A social role of religion is accepted and the duty of the state to ‘support and protect’ all religions is laid down in Art. 67 of the constitution.

The Buddhist monkshood or sangha is governed by the Sangha Supreme Council headed by the Supreme Patriarch based on the Sangha Act of 1962. Since a change to the law in 2017, the King appoints the Supreme Patriarch directly. The sangha is hierarchically organized and manages its affairs internally. In the past, courts have rejected the authority to judge the internal affairs of the monkhood when petitioned (Larsson 2016, p. 20). While monks according to the monastic code of conduct are not to own property, the Thai Civil and Commercial Code does not bar them from doing so or from entering into business transactions (Larsson 2016, p. 22). Art. 32 of the Sangha Act makes explicit that temples or monasteries as well as the sangha as a whole can own property (Art. 40). The property of individual temples is managed by the abbot, who can appoint a lay treasurer (Art. 37(1), 45). There is no legal constraint on the ownership of other forms of property under Thai law, but the Thai public has generally regarded this as inappropriate. According to a regulation issued in January 2020, temples need to submit documentation regarding the construction of buildings as well as renting out land or buildings to third parties and have their plans approved by the Sangha Supreme Council of Thailand (Thai Rath 2020).

Constituting 5% of the total population, Muslims form the largest religious minority in the Kingdom of Thailand. Under the Administration of Islamic Organizations Act of 1997, the religious committee is organized similar to the Buddhist monkhood. Its highest organ is the Central Islamic Council of Thailand (Sec. 17, 18). It is headed by the Sheikhu Islam, who is appointed by the King after he has been approved by Provincial Committees (Sec. 6). Mosques are recognized by the Thai state as juridical persons just as temples are (Art. 13). The management of the assets falls to the mosques’ Islamic Committee (Art. 35).

In a voluntary survey of 480 temples in 2012, 28% of the respondents indicated that their temples did not keep any accounts at all. In a further 46.5% of the cases the abbots did the accounting themselves (Chanthra 2012, p. 78). In the wake of a major corruption scandal implicating high-ranking lay officials as well as abbots, in 2017 a compulsory accounting form was introduced, which temples have to send to the office of the Supreme Patriarch as well as their provincial offices. New laws proposing legal changes to make temples more transparent and accountable, to regulate temples’ properties and to allow for audits have been introduced, but have been blocked by the strong resistance of monks (Dubus 2017, p. 52)
Donations given by the faithful to temples and mosques allow for tax deductions (Sec. 47(7)b and 65 Ter (3)).

In contrast to the permissive rules regarding economic activities, rules regarding political activities are strict. Thailand bars monks, but also female ascetics, from political activities by prohibiting them from voting and from being elected to public office (Larsson 2016, p. 18). Monks do, however, participate in state rituals, comment on social and political issues and individual monks have, in the context of the highly polarized politics of twenty-first century Thailand, made clear their political preferences (McCargo 2012, pp. 631–5).

**Turkey**

Similar to both Japan and Thailand, Turkey was not formally colonized in the late nineteenth or early twentieth century. In contrast to them, however, Turkey experienced a revolution which overthrew its monarchy, the Ottoman caliphate, and replaced it with a secular republic. This power struggle has shaped state-religion relations until the present. During the Turkish war of independence after the end of World War I, when parts of Turkey were occupied by Greece and the Allied powers, the sultan sided with the foreign powers against the nationalists under Kemal Ataturk. The Islamic authorities declared him an infidel, drawing a clear battle line between the sultan’s government and the Islamic authorities, on the one hand, and nationalists now identifying as secular and republicans, on the other (Karpat 2004, p. 214).

After their victory, the nationalists abolished the Ottoman Caliphate in 1924 and enshrined the principle of secularism in Article 2 of the Constitution of Turkey. The document’s preamble defines Turkish secularism as the non-involvement of religious sentiments in the affairs of the state and politics. In stark contrast to the French Republic, also constitutionally defined as secular, this definition does not bar the state’s involvement in the sphere of religion.

As was the case in Japan and Thailand, religion was seen as crucial for the state- and nation-building projects by Turkish nationalists. Together with the caliphate, the office of the Grand Mufti (Shaykh al-Islam) was abolished. It was replaced by the Directorate of Religious Affairs (Diyanet İşleri Başkanlığı) as a state-controlled institution under the office of the prime minister. The Diyanet provides religious education, trains and employs the country’s imams and provides them with weekly sermons. The Diyanet only does so for Sunni Islam (confessed by the majority of the country’s population). Due to its nature as a state organ, questions of incorporation, the regulation of business activities, book-keeping and taxation do not arise.

In the Lausanne Peace Treaty of 1923, which resulted in the international recognition of the newly founded Republic of Turkey, the Turkish state agreed to full equal treatment of the non-Muslim minorities as well as the freedom of religion (Art. 38–44). According to the treaty these stipulations are to be considered ‘fundamental laws’ of the republic (Art. 37). Until the present, however, under Turkish law there does not exist a mechanism for them or for Muslim minorities to incorporate and acquire a legal personality (European Commission for Democracy Through Law 2010, p. 10). Accordingly, the questions regarding the treatment of donations, business income as well as requirements to keep accounts are non-existent. Religious communities are therefore restricted to operating secular foundations for charitable purposes. Such foundations must keep accounts and are supervised by the Directorate of Foundations, a state organ under the Turkish Prime Minister.

The Treaty of Lausanne also requires the state’s protection of religious foundations, now commonly referred to as ‘fused foundations,’ that existed at the time of the signing (Art. 42).
Subsequently, however, their operations as well as the foundation of new religious foundations were largely hindered by the state. These actions were justified by the principle of secularism. Only in 2008 was the state’s stance towards non-profit organizations in general relaxed with the enactment of a new Foundations Act, which was supplemented by the Regulations for Foundations Regulation. The so-called ‘fused foundations’ of religious minorities remain under the management of the Directorate of Foundations under the law, however (Art. 6), which remains an entity reporting directly to the Office of the Prime Minister (Art. 35). Donations to the ‘fused foundations’ are deductible for both personal and corporate income taxes (Art. 77).

Private foundations, which must not be religious, but can be religiously motivated, can acquire a private legal status under the law (Art. 4). They can establish incorporated business, as long as the revenue is used for the foundation’s purpose (Art. 26). Such business activities of foundations are subject to corporate income tax just as for-profit businesses are (OECD 2013, p. 45). Foundations need to keep detailed books and are subject to audits by the Directorate of Foundations (Art. 31–4).

United States of America

The secularism of the United States is codified in the First Amendment to the United States Constitution. It bars Congress from establishing a religion or infringing on the free exercise of a religion. The Amendment has been interpreted by the courts as banning the state from giving aid to any religious activity at all. This ‘disestablishment’ has been described as the outcome of a ‘strange coalition’ between liberal rationalists and a multitude of religious sects in the late eighteenth century, and is based on the combination of the prevention of the state supporting religious groups with the protection of the freedom of religion (Monsma and Soper 2009, pp. 18–9).

For religious communities in the United States, the Internal Revenue Code is the most significant piece of legislation. They can incorporate tax-exempt charitable organizations under Art. 501(c) 3 of the code, as can other groups with charitable but non-religious purposes. Both corporate and individual donors can deduct such donations from taxable income up to prescribed limits (Art. 170).

Qualifying religious organizations are not barred from engaging in business activities as long as they are not a substantial part of the organization’s activities. Income tax must be paid on such unrelated business income, however (Art. 511–4). To avoid losing the tax-exempt status due to the size of the business activities, non-profit organizations can own for-profit subsidiaries, so called ‘feeder organizations.’ To them, however, the same tax rules apply as to all other businesses (Art. 502).

Religious organizations under Sec. 501(c) 3 of the Internal Revenue Code are required to keep accounts. But there are no general applicable rules regarding their nature (Internal Revenue Service 2015, pp. 25–9). With Art. 7611 of the Internal Revenue Code, Congress has introduced additional burdens regarding the audits of religious organizations, privileging them over other non-profit organizations. Only based on written evidence and approved by the secretary of the treasury or a high-ranking delegate, can the audit of a tax-exempt religious organization be launched.

It is well known that in the United States religious organizations are vocal commentators on social and political issues. Religious figures both vote and have been elected. However, as tax-exempt organizations under Art. 501(c) 3 of the Internal Revenue Code, religious
organizations are barred from explicitly giving voting recommendations or similar partisan advice (Internal Revenue Service 2015, pp. 7–8).

**Conclusion: what is next for research?**

Unsurprisingly, the summaries of the country cases above confirm the established view in the literature about the varieties of secularism. In the secular states discussed, there is a continuum between the strict differentiation of state and politics in France, Japan and the United States via a recognized social role in Germany and Thailand to state control in Turkey. The form of incorporation that religious organizations acquire varies accordingly, ranging from private non-profit corporations and associations in France, Japan and the United States, via the public corporations of Germany to the bodies directly controlled by the state in Turkey. While not being referred to public corporations explicitly, the status of Thai religious organizations fits this description and is therefore most comparable to the German case.

When it comes to the differentiation between the religious and the economic spheres, however, it is the similarities that dominate. In all countries income derived from donations and fees for religious services are tax-exempt. And with the notable exception of Japan, donating to religious organizations is encouraged by the states by allowing for tax deduction. Religion’s positive social role is thus implicitly recognized. In all countries, religious organizations may engage in for-profit and non-religious non-profit activities. There are differences regarding the question, if they may do so directly or must use a distinct entity. With the only exception of Thailand, however, tax codes ascertain that the entrance of religious organizations into the field of business does not distort competition. The exception of Thailand appears to be a theoretical one only, though, as temples in the Southeast Asian country do not appear to be active in for-profit or non-profit activities beyond the renting out of temple lands.

There are, however, considerable differences regarding the requirement to keep accounts. The legal requirement to keep accounts and the codification of the authority of secular bodies to audit them, demonstrate first of all the subordination of the religious organizations under secular law and the modern state. The lack of such authority in Germany and Thailand is the outcome of historical developments which have strengthened the negotiation position of religious organizations vis-à-vis the state.

Such in-depth historical comparisons of the development of the economic aspects of religious organizations appear to be one field where further research promises to be fecund. This first comparison has been necessarily limited to the most basic aspects of the state regulation of the economic activities of religious organizations in six countries. On the one hand, further research is required to broaden the scope of comparison, possibly also including countries that do not qualify as secular. On the other hand, a more detailed investigation of specific issues, for example based on the analysis of court decisions on similar issues, offers itself as promising, too.

**Law Code, Acts and Treaties**

**France**

The sacred and the secular-economic

France


Germany

Grundgesetz [Basic Law], online available at: www.bundestag.de/gg (last accessed 10 May 2018).

Japan


Thailand

Administration of Islamic Organisations Act 1997, online available at: (www.krisdika.go.th/ wps/wcm/connect/14bcb10040db1814aa1aeb0dd2c2aa0f/ADMINISTRATION+OF+ISLAMIC+ORGANISATIONS+ACT%2C+B.E.+2540+%281997%29.pdf?MOD=AJPERES&CACHEID=14bcb10040db1814aa1aeb0dd2c2aa0f) (last accessed 10 May 2018).

Turkey


United States of America


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