Religion and Law in Spain
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This book sets out to be a textbook. It has all the merits and deficiencies of that genre. The biggest deficiency is that the work sets out the legal rules and the decisions of the courts, but only occasionally pieces of information that enable the reader to get a real sense of the consequences of that state of the law. There is some attempt to provide contextual information in the ‘General introduction’ but that is very short and limited. Take but one example, the refusal of blood transfusions by Jehovah’s Witnesses (§§147–148). The work provides admirable detail on the national and European Court of Human Rights decisions. But it does not then ask the question how Jehovah’s Witnesses live with this state of the law; they are in a position in which certain treatments can be imposed, especially where their children are involved. This illustration demonstrates the ambition of the book. It is not about law and religion in Spain, but about the law governing religion and religious practice in Spain. If we understand that ambition, then the book achieves its purpose. It is a textbook which accurately surveys the various aspects of the subject, but that subject is narrowly conceived.

Derived substantially from the *International Encyclopaedia of Laws*, the book shows both its original ambition and its need of a radical restructuring for a stand-alone work. For example, a study of this kind should not leave out the topic of same-sex marriage, introduced in Spain in 2005 with much criticism from the Roman Catholic Church. The issue is only discussed in §§248–251 in relation to conscientious objection by public officials, rather than as an issue which has affected the relationship between secular society and organised religions.

So what counts as religion? Well, we have to wait until page 119 for this to be discussed. But we find that, although the registry of religions had some quite precise criteria, these were thrown into disarray by a Constitutional Court decision of 2001. This decision had the advantage that any institution could be registered as a religion as long as it was not within the categories prohibited in the organic law on religion. While this may be adequate for registration questions, it is not adequate for the rest of the book. In practice, the author is very much focused on this registration approach. The Catholic Church has a special position in relation to the state by virtue of the Concordat of 1979 and by specific mention in the Constitution, and other bodies count in effect if they have a contract with the state or if they are registered. The author is sensitive to the issues which are of significance to different religious groups and there is a serious
attempt to provide a balanced account, even if many of the issues turn out to be specific to the Catholic Church (such as the refusal of permission to continue to teach in Catholic schools of those who are considered not to be living in accordance with Church teaching). There is an underlying theme of the extent to which Spanish law treats other Christian denominations and other religions equally with the Catholic Church, the largest and most established religious group. That issue surfaces from time to time, without being treated in a systematic and rigorous way. Without that discussion, we are left in some doubt about the extent to which Spanish law can deal substantively with the freedom of religion, rather than having approaches which differ from one religious group to another.

The textbook approach enables the reader to examine a range of questions. Most are not distinctive to Spain – the role of labour law in church employment, the wearing of religious dress and signs, conscientious objection to military service and the place of respect for individual conscience in relation to certain medical procedures, time off work for religious worship and even tax advantages for religion. The distinctiveness of Spain is the special place that the Catholic Church has enjoyed, especially under Franco, and the need for the Spanish state to become more secular and for Spanish society to become more pluralist. It is therefore a pity that the section on the meaning of laicidad is so brief.

A further topic for development is the relationship between Spanish law and the European Convention on Human Rights. On many specific topics, the author is careful to present decisions of the Spanish courts and decisions reached by the European Court of Human Rights in Spanish cases. But a more systematic presentation of the developing relationship between the two regimes would provide a helpful perspective on Spanish law relating to religion, not least at the beginning of the book, when the sources of law are introduced.

The quality of the work is marred by infelicities in translation, especially words which only make sense if you can work out the original Spanish: for example, ‘sabbatical rest’ for ‘Sunday rest’. While this work does what it claims on the cover, it is fundamentally disappointing. It is not a monograph and does not really give the reader much impression of the current relationship of law and religion(s) in Spain. There is much of real interest to those outside Spain in the relationship of law and religion in that country, but one has to look elsewhere to find it.

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