

ISSN 0748-0814

VOLUME 30

ISSUE 3

OCTOBER 2015

Journal of **LAW** *and*
RELIGION



Journal of LAW *and* RELIGION

The *Journal of Law and Religion* publishes cutting-edge research on religion, human rights, and religious freedom; religion-state relations; religious sources and dimensions of public, private, penal, and procedural law; religious legal systems and their place in secular law; theological jurisprudence; political theology; legal and religious ethics; and more. The *Journal* provides a distinguished forum for deep dialogue among Buddhist, Confucian, Christian, Hindu, Indigenous, Jewish, Muslim, and other traditions about fundamental questions of law, society, and politics.

Co-Editors

Silas W. Allard
Abdullahi A. An-Na'im
Michael J. Broyde
M. Christian Green
Michael J. Perry
John Witte, Jr.

Managing Editor

Silas W. Allard

Book Review Editor

M. Christian Green

Associate Book Review Editors

Hina Azam
Justin J. Latterell

Editing Staff

Assistant Managing Editor

Christopher J. Manzer

Senior Staff Members

William Michael Evans
Nicole L. Levidow

Staff Members

Natalie Cohen	Grace Van Dyke
Max T. Eichelberger	Dalton Windham
William McLaughlin	Nathan L. Wood
Amin N. Sadri	Adam J. Woodward
Claire A. Sherburne	Peter J. Wosnik

INTERNATIONAL ADVISORY BOARD

Frank S. Alexander
Emory University
Founding Director, Center for
the Study of Law and Religion

Paul Babie
University of Adelaide
Director, University of Adelaide
Research Unit for the Study of
Society, Law and Religion

Deborah J. Cantrell
University of Colorado

Stephen L. Carter
Yale University

Ana María Celis Brunet
Pontificia Universidad Católica
de Chile
Director, Center for Religious
Freedom

Joseph Chan
University of Hong Kong

Paula M. Cooy
Macalester College

Perry Dane
Rutgers University

Donald R. Davis, Jr.
University of Texas

Norman Doe
Cardiff University
Director, Centre for Law and
Religion

Thomas Duve
Director, Max Planck Institute
for European Legal History

Anver M. Emon
University of Toronto

Carolyn Evans
University of Melbourne

Rebecca R. French
State University of New York

Edward McGlynn Gaffney, Jr.
Valparaiso University

Richard W. Garnett
University of Notre Dame
Director, Program on Church,
State & Society

Emily Albrink Hartigan
St. Mary's University

R. H. Helmholz
University of Chicago

Nancy Miller-Herron
Tennessee Claims Commission

Cathleen Kaveny
Boston College

Olga Kazmina
Moscow State University

Michael Kessler
Georgetown University
Managing Director of the
Berkley Center for Religion,
Peace, and World Affairs

Mirjam Künkler
Princeton University

Howard Lesnick
University of Pennsylvania

Samuel J. Levine
Touro Law Center
Director of the Jewish Law
Institute

Tim Lindsey
University of Melbourne
Director, Centre for Indonesian
Law, Islam and Society

David Little
Harvard University

Adrian Loretan
University of Lucerne
Co-director, Center for
Comparative Constitutional Law
and Religion

Robin W. Lovin
Southern Methodist University
Director of Research, Center of
Theological Inquiry

John McGuckin
Union Theological Seminary
Columbia University

Werner Menski
SOAS University of London

Ebrahim Moosa
University of Notre Dame

David Novak
University of Toronto

Michiaki Okuyama
Nanzan University
Director, Nanzan Institute for
Religion and Culture

Fernanda Pirie
University of Oxford

Jean Porter
University of Notre Dame

Thomas W. Porter, Jr.
Boston University
Executive Director,
JustPeace Center for
Mediation and Conflict
Transformation

Asifa Quraishi-Landes
University of Wisconsin

Gideon Sapir
Bar-Ilan University

Suwanna Satha-Anand
Chulalongkorn University

Prakash Shah
Queen Mary University of
London
Director, GLOCUL: The Centre
for Culture and Law

Steven D. Smith
University of San Diego
Co-Executive Director,
Institute for
Law & Religion

Suzanne Last Stone
Yeshiva University
Director, Center for Jewish
Law and Contemporary
Civilization

Kyriaki Topidi
University of Lucerne
Associate Director,
Center for Comparative
Constitutional Law and
Religion

Darryl M. Trimiew

Amelia J. Uelmen
Georgetown University

C. Leon van de Broeke
VU University
Chair, Centre for Religion and
Law

Michael Welker
University of Heidelberg
Director, Research
Center for International and
Interdisciplinary
Theology

Fenggang Yang
Purdue University
Director, Center on Religion and
Chinese Society

Journal of LAW *and* RELIGION

VOLUME 30 | ISSUE 3 | 2015

CONTENTS

SYMPOSIUM: CHRISTIANITY AND HUMAN RIGHTS

- 353 Christianity and Human Rights: Past Contributions and Future Challenges
John Witte, Jr. and Justin J. Latterell
- 386 The First Word: To Be Human Is to Be Free
Desmond M. Tutu
- 391 Imprudent Jurisprudence? Human Rights and Moral Contingency
Nigel Biggar
- 402 How to Think Theologically about Rights
Stanley Hauerwas
- 414 Rehabilitating Democracy: Restoring Civil Rights and Leading the Next Human Rights Revolution
Robert M. Franklin
- 428 A New Magna Carta for the Early Modern Common Law: An 800th Anniversary Essay
John Witte, Jr.
- 446 Justice, Equality, and Natural Rights Claims: A Reconsideration of Aquinas's Conception of Right
Jean Porter
- 461 An Issue of the First Importance: Reflections on the 50th Anniversary of *Dignitatis Humanae*
Russell Hittinger
- 475 Religious Freedom versus Sexual Expression: A Guide
Helen M. Alvaré

BOOK REVIEW ROUNDTABLE

- 496 Polycarp's Dilemma: A Discussion of Nicholas Wolterstorff's *The Mighty and the Almighty: An Essay in Political Theology*
Richard Garnett, Robert Audi, Jonathan Chaplin, Dana L. Dillon, Brad S. Gregory, John Inazu, Anna Moreland, Michael P. Moreland, Mark A. Noll, and Gladden J. Pappin

BOOK REVIEWS

- 517 Review of *Magna Carta, Religion and the Rule of Law*
John Hudson
- 521 Review of *What Is an American Muslim? Embracing Faith and Citizenship*
Sherman Jackson
- 526 Review of *Inventing the Individual: The Origins of Western Liberalism*
Matthew J. Tuininga
- 530 Review of *First Amendment Institutions*
B. Jessie Hill
- 534 Review of *Biblical Narrative and the Formation of Rabbinic Law*
Chaya Halberstam
- 538 Review of *Traditional African Religions in South African Law*
Enyinna Nwauche
- 541 Review of *Defending American Religious Neutrality*
Mark Goldfeder