

ISSN 0748-0814

VOLUME 33

ISSUE 2

AUGUST 2018

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
Michael J. Broyde
M. Christian Green
Michael J. Perry
John Witte, Jr.

Managing Editor

Silas W. Allard

Special Content Editor

M. Christian Green

Book Review Editors

Hina Azam
Justin J. Latterell

Editing Staff

Chief of Staff

SaiSantoshKumar Kolluru

Assistant Managing Editors

Tiffany Quynh-Nhi Do
Larry Kim
Allen Kowalczyk

Joseph Quattlebaum
Amanda Singh
Linh Vu

Staff Members

Min Gee Cho
Dexter Downs
Catherine Grady
Asha Kuttikattu
Nathaniel Lancaster
Raul Medina

Alejandra Mejia
Daniel P. Miller
Mary Joyce Newton
Kyle Svendsen
William S. Weston
Aaron Walayat

Special thanks to our supportive colleagues at Cambridge University Press: Hannah Patrick, Commissioning Editor; Brian Mazeski, Production Editor; and Ellen Wert, Copyeditor; and to Namratha Minupuri, Editorial Assistant to the Managing Editor.

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 33 | ISSUE 2 | 2018

CONTENTS

- 129 Editorial
M. Christian Green
- SYMPOSIUM: THE LEGITIMATE SCOPE OF RELIGIOUS ESTABLISHMENT**
- 134 Why Does Religious Establishment Need to Justify Itself?
Andrea Pin
- 137 The (Not So) Exceptional Establishment Clause of the United States Constitution
Brett G. Scharffs
- 155 The Catholic Church Tested for Confessionalism: The Vatican II Doctrinal Principles
Matteo Visioli
- 172 Religious Freedom without Equality? Religious Minorities and the Establishment of Religion in Argentina
Juan Martin Vives
- SYMPOSIUM: THE BUREAUCRATIZATION OF RELIGION IN SOUTHEAST ASIA**
- 192 The Bureaucratization of Religion in Southeast Asia: Expanding or Restricting Religious Freedom?
Mirjam Künkler
- 197 Buddhist Bureaucracy and Religious Freedom in Thailand
Tomas Larsson
- 212 Bureaucratic Islam Compared: Classificatory Power and State-ified Religious Meaning-Making in Brunei and Singapore
Dominik M. Müller
- 248 The Political Origins of Islamic Courts in Divided Societies: The Case of Malaysia
Kikue Hamayotsu
- 271 Eat, Pray, Regulate: The Indonesian Ulama Council and the Management of Islamic Affairs
Stewart Fenwick

291 The Bureaucratization of Muslim Marriage in Indonesia
Eva F. Nisa

BOOK REVIEWS

310 Review of *The Production of American Religious Freedom*
Christopher Buck

315 Review of *The Rise of Corporate Religious Liberty*
Matthew P. Cavedon

318 Review of *Religionsunterricht an öffentlichen Schulen in Spanien und Deutschland*
Boris Paschke

322 Review of *Revelation and Authority: Sinai in Jewish Scripture and Tradition*
Sarah Wolf