EDITOR'S PREFACE

NOVEMBER 1, 2004

As the United States prepares for the 2004 presidential election, its significant influence on world politics has become an unusually important part of the debate in barbershops, union halls and other places where ordinary people gather to discuss community concerns. Among the questions at the forefront of these discussions are two to which this issue responds in part. First, is religion a positive influence on domestic and global politics, or are religious beliefs causing presidential and other candidates to adopt policies inimical to national and global welfare? Second, what will be the place of traditionally Islamic countries in shaping worldwide responses to the relationship between violence, justice and legal authority?

Wael Hallaq sheds important light on this second question by focusing on the unquestioned assumption in most Muslim nations that it is the state that is the source of legal authority. He argues that Islamic thinkers must grapple with the reality that there are two sources of legitimating legal authority in these nations, one the state, the other embedded in the "counterrevolutionary" call to restore the Shari'a, a movement that demands "nothing less than displacing the existing legal structures of the modern nation-state," just as Shari'a was replaced by most national law 150 years ago. He considers how Islamic law, a set of "textual signs" or "indications," can serve as the basis for an authoritative legal system.

Bahá'í answers the question whether religion can have a positive influence on global politics in the affirmative. Describing the internationalism motif that is found throughout Bahá'í political and legal thought, Roshan Danesh argues against the view that religion is necessarily the source of divisive politics and violence in the world. He illuminates the legal philosophy of the Bahá'í faith that religion can be a potentially unifying foundation in our efforts toward a universal civilization.

Turning to domestic politics, Malcolm Voyce suggests that the nature of a nation's ability to embrace all of its citizens will be strongly influenced by the theological vision that its leaders offer. Voyce argues that since the 1980s, Australia's approach to its social welfare policies

has been heavily influenced by "enterprise theology," grounded in historical emphasis on self-sufficiency and industry as chief virtues. This enterprise theology, which posits a relationship between salvation, discipline and care within the private community has, in his view, been critical in the politics of privatization in Australia.

Modern commonplaces about law and legal literature also receive surprising challenges in essays by H.L. Ho and Trisha Olson. Ho unseats the commonplace that the trial by ordeal and similar medieval modes of proof constituted "primitive" and barbaric methods of seeking justice. By recapturing the medieval worldview, Ho suggests, we can see more clearly that these fact-finding institutions, focused on divine justice, must be evaluated afresh, arguing that they can be seen as justifiable on socio-political, epistemic, spiritual and ethical grounds.

Olson re-visits Shakespeare's *The Merchant of Venice*, a play that has generated widespread scholarly debate about whether Shylock is the victim of an anti-Semitic culture, or a villain who deserves the fate meted out to him. For legal scholars, Olson argues, a key question has been whether an act of justice, as evidenced in Portia's skillful lawyering at the end of the play, can unify the tension between law and mercy. Reading the play through its performance in Jonathan Miller's 1981 BBC production, Olson wants to suggest that mercy, properly understood, "is a necessary condition to the fulfillment of law" as law binds a community together.

The complex history of the battles over religious freedom in the United States is always illumined by state-by-state controversies over the meaning of state constitutional religion clauses, fought out in legislatures and courts throughout the country. Jeremy Patrick explores Nebraska's religious freedom history, which began with a strong separationist reading of that state's anti-establishment language but evolved in a different direction. He speculates about whether state constitutional interpretation in the future will follow or diverge from the Supreme Court's reading of the federal clause.

The history of thought also illumines our debate about modern philosophy and its relationship to theology. Jack Coons, reading Jeremy Waldron's *God, Locke, and Equality: Christian Foundations in Locke's Political Thought*, praises Waldron's view that philosophers will "simply think better about equality" when they, like Locke, may go to theology as the source of that ethical principle, but poses some critical questions about the meaning of equality used in this way.

Finally, Robert Vischer explores the challenge of the religious lawyering movement to the modern understanding of the lawyer as a

priest of the law. Arguing that the religious lawyering movement has too easily accepted the assumption that religious lawyers are mounting a purely individual challenge to the prevailing priesthood paradigm, Vischer explores whether a vision of religious lawyering as a communal project promises something more for lawyers trying to integrate their faith and their professional work.

Marie A. Failinger, Editor

https://doi.org/10.1017/S0748081400003349 Published online by Cambridge University Press