

IN THIS ISSUE: An Introduction

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Welcome to the premier issue of *Religio et Lex: Contemplations on Religion & Law*. Not a law journal, *Religio et Lex* seeks to provide a forum for graduates and undergraduates from all disciplines whose work explores the many points of contact between religion and law (both traditionally and broadly understood). To supplement that, *Religio et Lex* seeks also to provide a form for scholars and practitioners whose work brings them into the intersection of religion and law (broadly understood), in or out of the classroom.

The journal is an attempt to build on three very specific ideas. First, interest in issues at the intersection of religion and law is not limited to those with formal legal training. Every year, scholars representing every discipline come from around the world to present papers on such issues at the annual meetings of a wide variety of professional academic associations (including the American Academy of Religion and the Society for the Sociology of Religion). Some of those who do so are formally trained in law; most are not. And while there certainly is a need for the perspective gained from those who have such training in matters related to law, there also is a need for the perspective of those whose training has taken them deep into the humanities and social sciences as well.

Second, “law” and “religion” mean so many different things that it is counterproductive to limit them unnecessarily. The project of modernity has privileged the rule of law in the construction of the modern state; it also has, as a byproduct, often created conflicts between adherents of particular religious traditions and that state over how to negotiate religious and national obligations. In the academic world within the United States, this has produced a healthy study of issues related to religious freedom and the religion clauses of the First Amendment to the U.S. Constitution; outside of the United States it has produced studies of similar issues. But even in the United States—and certainly the rest of the world—there are legal systems that not only predate the project of modernity, but which are embedded within the framework of the religious community itself. These systems may go by different names—*halakhah*, *sharia*, canon law, etc.—but they are each as much a legal code—and as central to the life and identity of the adhering community—as “positive” or “human” law is. Those who represent the academic study of law from one perspective—regardless of whether that is in law school or seminary—often overlook the presence of one in their exploration of the other, or miss the relationship between the two altogether.

And third, because conversations of religion and law often take place in legal forums, contributions are expected to conform to the standards of the legal disciplines—and rightly so. But if the conversation is going to expand to include those who seek to explore the relationship of religion and law both broadly understood—and to invite those with less advanced training to join in—it must be in a forum that permits the broadest of formats, seeking the greatest level of inclusion.

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Religio et Lex seeks to provide a forum for all of these voices. Its format is designed to maximize a broad spectrum of interests and intellectual perspectives while minimizing the dominance of any one intellectual discipline. It provides peer-review for the more advanced scholars, while also providing a safe (but discerning) haven for undergraduates with less training or experience in the academic environment. It provides a forum for those who work every day confronting these issues, be they instructors working in the classroom or practitioners employed outside of it. And it includes in its management and production undergraduate students learning first-hand how to encourage and manage a journal-based intellectual conversation.

IN THIS ISSUE we bring together three articles of extraordinary diversity. The first, “Spirituality and the Law,” written by Madeline Leibin while in her junior year at the College of Charleston, examines the shift in how people are religious in contemporary America and how that has become embodied in First Amendment litigation. Examining major court decisions from the second half of the twentieth century, Leibin demonstrates how non-institutional “spirituality” has evolved from a primarily tradition-based definition of religion within and beyond the First Amendment religion context. This paper was recommended to *Religion et Lex* by Professor Elijah Siegler.

The second, “‘As I Had Mercy on You’: Karla Faye Tucker, Immanuel Kant, and the Impossibility of Christian Retributivism,” written by Ian Burton Huyett while a student at the Washington & Lee University School of Law, explores a Christian perspective on the punishment of criminals, particularly those—like death-row inmate Karla Faye Tucker—who face the death penalty but who have been spiritually born again (in the evangelical Protestant tradition). Grounding his analysis in classic philosophy and Christian theology, Huyett illustrates the dilemma of justifying the use of capital punishment on those who have experienced a spiritual transformation.

The third article, “Public Yet Sacred: The Kenyan Experience in ‘Resolving’ the Conflicting Demands of Shared Spaces,” takes us out of an American, predominantly Christian milieu and examines the legal relationship of African Traditional Religions (ATR) and the government of Kenya. Written by John Joseph Wamwara, an Advocate of the High Court of Kenya and law lecturer in Kenya who is currently an SJD candidate in law and religion and the first Dooyeweerd Fellow in Law and Religion at the Center for the Study of Law and Religion at Emory University, this article describes the struggles of two specific ATR communities as they grapple with the repercussions of colonialism, government authority, civic need, and the needs of religious communities tied to specific spaces identified as sacred.

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Religio et Lex is produced under the auspices of the Center for the Study of Religious Freedom at Virginia Wesleyan University.

Recognized as a green college and named one of the nation’s best institutions for undergraduate education by *The Princeton Review*, **Virginia Wesleyan University** is a private, four-year liberal arts college focused on empowering students to become active

learners and engaged citizens. In accord with the College's United Methodist heritage, Virginia Wesleyan aspires to be a supportive community that is committed to social responsibility, ethical conduct, higher learning and religious freedom. The University is located on a picturesque 300-acre campus on the border of Norfolk and Virginia Beach, Virginia.

The **Center for the Study of Religious Freedom**, located on the campus of Virginia Wesleyan University, is one of the few programs of its kind operating within an undergraduate liberal arts university in the United States. Since its inception in 1996, the Center has brought individuals and communities into deep and meaningful dialogue about the most important values in society. Its work is grounded in the University's commitment to a rigorous liberal arts education and its United Methodist heritage, which has long recognized religious freedom as a basic human right. The Center aims to create a civil society through education, respectful dialogue, and mutual understanding and is dedicated to equipping students to be leaders and citizens who understand how the reconciliation of religious differences creates the most meaningful opportunities for civil solutions to difficult and urgent problems.

We are grateful to the University and to the Center for their encouragement and support. We at *Religio et Lex* believe that all of us can better facilitate true religious freedom only if we understand both the potential of, and the limits on, the lives of all people. In that, we believe that we are following in the mandate of the Center and the vision of Virginia Wesleyan University. We hope you agree.