

In This Issue

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Managing Editor

It is with sincere apologies that I present this issue of *Religio et Lex*, the “summer” issue that we are pleased to finally present to you before the end of the year, 2021. We could blame COVID, or our own work schedules, but the truth is that all of it combined to make this a very odd year for everyone. While we hope for better in the future, we are pleased at the very least to be here, now.

IN THIS ISSUE we bring together a variety of voices and perspectives, albeit (as it turns out) all from Emory University. The first peer-reviewed article, “The Problem with the Peace Cross: *American Legion v. American Humanist Association* and the Power of Courts to Shape Societal Memory,” was written by Adam McDuffie, a doctoral candidate at Emory University. In it, McDuffie explores the role of history in constructing the meaning of symbols, and the danger of ignoring (or evacuating) that meaning—particularly religious meaning—when confronting First Amendment religion challenges. McDuffie’s article is an expansion of an article first published in the *Canopy Forum*, an online publication of the Center for the Study of Law and Religion, where McDuffie works as a researcher. It is presented here with their permission.

The second article, “From Hobby Lobby to Hospitals: Religious Autonomy for Religious Healthcare Institutions,” was written by Patrick Judd, a JD candidate at Emory University School of Law where he is also the Executive Managing Editor of the *Emory Law Journal*. Judd’s work examines the ramifications of the Court’s decision in *Burwell v. Hobby Lobby* (2014)—which recognized the religious rights of a “closely held corporation” to claim a religious exemption from objectionable provisions of the *Affordable Care Act* (“Obamacare”)—on other institutions whose founding and operation is grounded in religious principle. Specifically, Judd examines the right of religiously-based hospitals to object to the provision of healthcare procedures—not just abortions, but also gender affirming surgery (or related procedures)—that are considered objectionable by the related religious community. Judd is also the Executive Managing Editor of the *Emory Law Journal*.

The third article, “No Legs to Stand On: A Catch-22 in Religious Land Use Justiciability,” by John Devine, is an exacting analysis of the *Religious Land Use and Institutionalized Persons Act*—known simply by many as “RLUIPA”—and the standards by which various courts have sought to distinguish those with actionable claims from those without. Taking readers through the jurisprudence of various state and federal courts, Devine identifies the dangers of different courts holding plaintiffs to standards that are in keeping neither with broader constitutional standards nor the standards articulated by those who legislated the Act as a response to the perception of a narrowing of religious freedoms as a result of the Supreme Court’s decisions in *Employment Division v. Smith* (1990) and *Boerne v. Flores* (1997). Devine is also in his final year at the Emory University School of Law.

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Our final article, “The Field I Want to Inhabit,” is a reflection by Donald Davis, scholar of law and religion at the University of Texas at Austin. In it, Davis examines broad patterns in the historiography and scholarship of what is known either as “Hinduism and law” or Dharmaśāstra, and ponders the relationship between the categories of “religion” and “law,” but also the relationship between how those terms are understood in the Euro-American scholarly tradition and how they are understood in India. Davis, the author or editor of numerous works including *The Spirit of Hindu Law* (2010), *Hindu Law: A New History of Dharmaśāstra* (co-edited with Patrick Olivelle, 2018), and *Hinduism and Law: An Introduction* (co-edited with Timothy Lubin and Jayanth Krishnan, 2010), sits on the *Religio et Lex* Faculty Advisory Board.

Alas, we received no undergraduate student paper suitable for publication in this issue. We will double our efforts to locate appropriate papers; we encourage you to submit your recommendations to us.

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Religio et Lex is produced under the auspices of the Robert Nusbaum Center (formerly 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 **Robert Nusbaum Center**, 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.