

## EDITOR'S PREFACE

The old jazz song counsels, "No need to remember 'when,' 'cause everything old is new again." In this issue of the *Journal*, our authors remind us how true that advice is with respect to the discipline of law and religion, in two ways. In one sense, the songs—and the authors—remind us that to be careful about presuming that we have found a brand-new focus—in this case, the trendy focus on internationalization in law and comparative law analyses of recurring human problems between the state and the individual. In the other sense, the articles in this issue highlight the reality that there are always insightful new recoveries of old traditions, and new twists on (or applications of) recurring themes, no matter how much we have discussed them.

Robert John Araujo and John A. Lucal remind us of the lengthy provenance of international relations, even while American law schools internationalizing their programs imagine that legal relationships between nation-states were a contemporary phenomenon. They return to the days of medieval diplomacy in *A Forerunner for International Organizations: The Holy See and the Community of Christendom*. In this article, they argue that the Papacy's role as an international go-between among the rulers of that period foreshadows the development of the modern international diplomatic organization, helping us see how the debates about the necessary role of such organizations have continued over time and not simply emerged in the modern period.

Similarly, in *Natural Law and Natural Rights in Islamic Law*, Anver Emon delves into the tradition of Islam to suggest that the "common wisdom" that Islam is a religion of strict scriptural positivism, that it has no room for a natural law tradition, is not entirely consistent with the tradition. Such an argument makes way for a renewed discussion among the Western religious traditions, at least, about the possibility of natural rights that must undergird and inform international human rights debates. Greg Taylor analyzes a recurring debate within Judaism about "who is a Jew" and applies it to the very modern problem of national recognition of religion, its membership and boundaries in *German Courts Decide Who is Jewish: On the Agreements Between the German State and Jewish Groups, and the Resulting Litigation*. For today's Germany, intent on making affirmative reparations to a community devastated by the Holocaust while yet respecting the

boundaries necessary for religious organizations to exercise their religious freedom, the question of who is a Jew is a difficult one.

Our authors also provide some new twists and insights into seemingly timeless inquiries about the nature and limits of religious freedom in a democracy. In *A Dream Dialogue on Religious Liberty*, Frederick Guyette imagines what would happen if some of the most provocative religious liberty thinkers, academic and political, who represent different faith traditions and centuries—from Roger Williams and Raul Hilberg to Richard John Neuhaus, John Locke, and William Penn—could gather in one place for a discussion on religious liberty.

Albert Starkus returns to a familiar theme of this *Journal*, the question of whether arguments based on religious conviction belong in public. In *A Brief Survey and Critique of the Case Against the Use of Religious Arguments in the United States*, he takes on what he views as the two most common complaints against religious argument, e.g. that they are inaccessible to non-adherents of the arguer's religion, and that religious beliefs are dangers and divisive in a pluralistic democracy.

Francis Beckwith re-visits the creationism/intelligent design and evolution controversy, one of America's consistent religious liberty battles since the early 20<sup>th</sup> century by exploring the debate between philosophers of science Alvin Plantinga and Robert T. Pennock. Plantinga, following John Rawls, argues that it is politically unjust for public schools to teach either evolution or creationism unconditionally. Beckwith suggests how the federal courts' treatment of this subject is consistent with Plantinga's thesis, as well as his own argument. Following these themes, Christopher Lund reviews Kent Greenawalt's *Does God Belong in Public Schools?* and Paul Weithman reviews Paul Kahn's *Putting Liberalism in its Place*.

We also present an update of the Truth Commissions and Transitional Justice bibliography published in Volume 16, Number 1, prepared by Karin Alexander, Diana Batchelor, Alexis Durand and Tyrone Savage, staff members of the Institute for Justice and Reconciliation in South Africa. The entire bibliography is available at their website at [http://www.ijr.org.za/publications/data/index\\_html](http://www.ijr.org.za/publications/data/index_html).

Finally, we are pleased to publish reviews on James Bennett's book, *Religion and the Rise of Jim Crow in New Orleans*, about the effect of segregation on mainstream Christian congregations, reviewed by Alfred Brophy; a new book by Carl Esbeck and colleagues entitled *The Freedom of Faith-Based Organizations to Staff on a Religious Basis*, reviewed by Christopher Lund; and Charles Reid's own reflections on David Daube, as he engages Calum Carmichael's

“biographical reminiscence,” *Ideas and the Man: Remembering David Daube*. As a convenience to readers who want the latest on law and religion books coming out, we have begun to publish many of these reviews in advance of our paper issue, as they become ready. You can see those reviews that have been finished by going to our book reviews website, [http://www.hamline.edu/law/jlr/upcoming\\_reviews\\_essays.html](http://www.hamline.edu/law/jlr/upcoming_reviews_essays.html)

Marie A. Failing, Editor