

Book Review

***Law's Religion: Religious Difference and the Claims of Constitutionalism*, by Benjamin L. Berger¹**

HOWARD KISLOWICZ²

BENJAMIN BERGER'S *Law's Religion: Religious Difference and the Claims of Constitutionalism* is a remarkable work of sharp analysis and deft prose. For readers within legal academia and practice, the book sets a challenging task: to examine from the outside a structure in which they are sitting. *Paradoxically*, the central insight of Berger's book is that Canadian constitutional law is a culture, a system of symbols that structure and generate meaning, deeply influenced by a liberal tradition and a particular history. Berger reminds us that even those who agree with this basic proposition often find themselves speaking of law as if it were above or without culture. Through examples drawn principally from Canadian court decisions, Berger shows persuasively that when law encounters religion, we witness a meeting-of-cultures, each with its own symbolic, aesthetic, and normative commitments. The participants in this cross-cultural encounter, however, are not equal in power. The law has a coercive capacity unavailable to most religions, which sometimes makes the encounter colonial or conversionary in character. Berger argues that this is not a problem that can be cured; law cannot help but be a culture, and its impulse to rule is deeply ingrained. Instead, Berger provocatively suggests that judges should cultivate their indifference to

1. Oxford University of Toronto Press, 2015. (Berger).

2. Assistant Professor, Faculty of Law, University of New Brunswick. Thanks go to Tom Champion for his research assistance and to Kathryn Chan for helpful comments on a previous draft. Special thanks, as always, to Dr. Nicoma Lee and Colleen Kickner.

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Freedom of Religion at Stake Dion A. Forster, Elisabeth Gerle, Goran Gunner, 2019-11-01 How can freedom of religion protect the dignity of every human being and safeguard the well being of creation This question arises when considering the competing claims among faith traditions states and persons Freedom of religion or belief is a basic human right and yet it is sometimes used to undermine other human rights This volume seeks to unpack and wrestle with some of these challenges In order to do so scholars were invited from different contexts in Africa and Europe to write about freedom of religion from various angles How should faith traditions in a minority position be protected against majority claims and what is the responsibility of the religious communities in this task When does the state risk overstepping its boundaries in the delicate balance between freedom of religion and other human rights How can new voices who claim their human rights in relation to gender roles reproductive rights and as sexual minorities be heard within their faith traditions These are some of the questions that are raised by the authors This is a book for all who are engaged in faith communities leaders as well as people trying to be recognized It is also important reading for all interested in international legal frameworks for freedom of religion state advisers and human right defenders

The End of Religion Kathleen McPhillips, Naomi Goldenberg, 2020-10-22

Feminist theory has enhanced and expanded the agency influence status and contributions of women throughout the globe However feminist critical analysis has not yet examined how the assumption that religion is natural timeless universal and omnipresent supports sexist and race based oppression This book proposes radical new thinking about religion in order to better comprehend and confront the systematic disempowerment of women and marginalized groups Utilising feminist and post colonial analysis of access equity and violence contributors draw on recent critical theory to collapse accepted boundaries between religion and secularity with the aim of understanding that religion is a technology of governance in its function meaning and history The volume includes case studies focusing on how the category of religion is deployed to perpetuate male hegemony and racist inequities in Australia Mexico the United States Britain and Canada This trenchant feminist critique and academic analysis will be of key interest to scholars and students of Religion Sociology Political Science and Gender Studies

Law, Religion and Reconciliation in Africa M. Christian Green, Jean-Baptiste Sourou, Célestin Gnonzion, 2024-05-20 Forgiveness and reconciliation are important moments for the stability of a society and a state Many African countries have gone through serious social crises in the post colonial period genocide post election crises civil and internal conflicts and outright war Forgiveness and reconciliation have been necessary to reweave the social fabric and restart the construction of peaceful and prosperous societies Chapters in this book examine the Truth and Reconciliation Commissions and religious councils aimed at peace along with African traditional approaches mediation and arbitration councils post conflict contexts and the roles of women and gender philosophy and theology and programs of education for peace

Constitutionalism in Asia Wen-Chen Chang, Li-ann Thio, Kevin YL Tan, Jiunn-rong Yeh, 2014-02-19 This book of

text cases and materials from Asia is designed for scholars and students of constitutional law and comparative constitutional law. The book is divided into 11 chapters arranged thematically around key ideas and controversies enabling the reader to work through the major facets of constitutionalism in the region. The book begins with a lengthy introduction that critically examines the study of constitutional orders in Asia highlighting the histories, colonial influences and cultural particularities extant in the region. This chapter serves both as a provisional orientation towards the major constitutional developments seen in Asia both unique and shared with other regions and as a guide to the controversies encountered in the study of constitutional law in Asia. Each of the following chapters is framed by an introductory essay setting out the issues and succinctly highlighting critical perspectives and themes. The approach is one of challenge and response whereby questions of constitutional importance are posed and the reader is then led by engaging with primary and secondary materials through the way the various Asian states respond to these questions and challenges. Chapter segments are accompanied by notes, comments and questions to facilitate critical and comparative analysis as well as recommendations for further reading. The book presents a representative range of Asian materials from jurisdictions including Bangladesh, China, Hong Kong, India, Japan, Mongolia, Nepal, Pakistan, South Korea, Sri Lanka, Taiwan, Timor Leste and the 10 ASEAN states.

Collective versus Individual Rights. The Case Law of the European Court of Human Rights in the German Religious Labour Law Cases

Stefan Kirchner, 2015-06-02. Essay from the year 2015 in the subject Law European and International Law Intellectual Properties language English abstract Religious organizations which operate hospitals, kindergartens and other institutions are important employers. This is particularly the case in Germany where institutions related to Christian groups including the united evangelical regional churches and the Catholic church are the second most important employer after the public sector. At the same time is there a sense of increased secularization. This can lead to situations in which employees while willingly employed by a religiously motivated organization openly defy key rules of this religious group e.g. when it comes to issues such as divorce or homosexuality. In the last years a number of cases have made it through the court system in Germany and eventually to the European Court of Human Rights. By looking at some of these cases and the wider case law of that Court this article is aimed at providing the reader with an overview over the topic but also with an answer to the question how the European Convention on Human Rights which allows for a wide range of legal models concerning the relationship between the state and organized religions.

Religious Offences in Common Law Asia

Li-ann Thio, Jaclyn L Neo, 2021-02-25. This book provides in depth comparative analysis of how religious penal clauses have been developed and employed within Asian common law states and the impact of such developments on constitutional rights. By examining the theoretical and conceptual underpinnings of religious offences as well as interrogating the nature and impact of religious penal clauses within the region it contributes to the broader dialogue in relation to religious penal clauses globally whether in countries which practise forms of secular or religious constitutionalism. Asian practice is significant in this respect given the centrality

of religion to social life and indeed in some jurisdictions to constitutional or national identity Providing rigorous studies of common law jurisdictions that have adopted similar provisions in their penal code the contributors provide an original examination and analysis of the use and development of these religious clauses in their respective jurisdictions They draw upon their insights into the background sociopolitical and constitutional contexts to consider how the inter relationship of religion and state may determine the rationale and scope of religious offences These country by country chapters inform the conceptual examination of religious views and sentiments as a basis for criminality and the forms of harm that attract legal safeguards Several chapters examine these questions from a historical and comparative perspective considering the underlying bases and scope as well as evolving objectives of these provisions Through these examinations the book critically interrogates the legacy of colonialism on the criminal law and constitutional practice of various Asian states

Normative

Pluralism and Human Rights Kyriaki Topidi,2018-06-13 The complex legal situations arising from the coexistence of international law state law and social and religious norms in different parts of the world often include scenarios of conflict between them These conflicting norms issued from different categories of laws result in difficulties in describing identifying and analysing human rights in plural environments This volume studies how normative conflicts unfold when trapped in the aspirations of human rights and their local realizations It reflects on how such tensions can be eased while observing how and why they occur The authors examine how obedience or resistance to the official law is generated through the interaction of a multiplicity of conflicting norms interpretations and practices Emphasis is placed on the actors involved in raising or decreasing the tension surrounding the conflict and the implications that the conflict carries whether resolved or not in conditions of asymmetric power movements It is argued that legal responsiveness to state law depends on how people with different identities deal with it narrate it and build expectations from it bearing in mind that normative pluralism may also operate as an instrument towards the exclusion of certain communities from the public sphere The chapters look particularly to expose the dialogue between parallel normative spheres in order for law to become more effective while investigating the types of socio legal variables that affect the functioning of law leading to conflicts between rights values and entire cultural frames

Law's Religion Benjamin L. Berger,2016-01-28 Prevailing stories about law and religion place great faith in the capacity of legal multiculturalism rights based toleration and conceptions of the secular to manage issues raised by religious difference Yet the relationship between law and religion consistently proves more fraught than such accounts suggest In Law's Religion Benjamin L Berger knocks law from its perch above culture arguing that liberal constitutionalism is an aspect of not an answer to the challenges of cultural pluralism Berger urges an approach to the study of law and religion that focuses on the experience of law as a potent cultural force Based on a close reading of Canadian jurisprudence but relevant to all liberal legal orders this book explores the nature and limits of legal tolerance and shows how constitutional law's understanding of religion shapes religious freedom Rather than calling for legal reform Law's Religion invites us to rethink

the ethics virtues and practices of adjudication in matters of religious difference *Constitutional Forum*, 2003 West Virginia Law Review, 2007 **Legal Information** Kent C. Olson, 1999 This book looks not only at the law but also at other aspects of the legal system such as the history politics and structure of lawmaking institutions Preface p vii **ELA Notes** Education Law Association (U.S.), 2006 Alberta Law Review, 2009 **Manifestations of Antisemitism in the EU 2002-2003** European Monitoring Centre on Racism and Xenophobia, 2004 **Major Problems in American History Since 1945** Robert Griffith, Paula Baker, 2007 This text introduces students to both primary sources and analytical essays on important topics in U.S. history. The book asks students to evaluate primary sources test the interpretations and draw their own conclusions **Yearbook of International Organizations 2014-2015 (Volume 4)** Union Of International Associations, Union of International Associations, 2014-09-17 The Yearbook of International Organizations provides the most extensive coverage of non profit international organizations currently available Detailed profiles of international non governmental and intergovernmental organizations IGO collected and documented by the Union of International Associations can be found here In addition to the history aims and activities of international organizations with their events publications and contact details the volumes of the Yearbook include networks between associations biographies of key people involved and extensive statistical data Providing both an international organizations and research bibliography Volume 4 cites over 46 000 publications and information resources supplied by international organizations and provides nearly 18 000 research citations under 40 subject headings This volume also includes a research bibliography on international organizations and transnational associations **MultiCultural Review**, 2004 Encyclopedia of Women & Islamic Cultures: Methodologies, paradigms and sources Suad Joseph, Afsaneh Najmabadi, 2003 Focuses on women and the civilizations and societies in which Islam has played a historic role Surveys all facets of life society economy politics religion the arts popular culture sports health science medicine environment and so forth of women in these societies **Juvenile Justice Update**, 2005 Law, Religion, Constitution Dr Cristiana Cianitto, Ms Donlu Thayer, Professor Silvio Ferrari, Professor W Cole Durham Jr., 2013-09-28 What is the place assigned to religion in the constitutions of contemporary States What role is religion expected to perform in the fields that are the object of constitutional regulation Is separation of religion and politics a necessary precondition for democracy and the rule of law These questions are addressed in this book through an analysis of the constitutional texts that are in force in different parts of the world Constitutions are at the centre of almost all contemporary legal systems and provide the principles and values that inspire the action of the national law makers After a discussion of some topics that are central to the constitutional regulation of religion the book considers a number of national systems covering countries with a variety of religious and cultural backgrounds The final section of the book is devoted to the discussion of the constitutional regulation of some particularly controversial issues such as religious education the relation between freedom of speech and freedom of religion abortion and freedom of conscience

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