EDITOR'S PREFACE

Human experience, Trisha Olson reminds us in *The Medieval Blood Sanction and the Divine Beneficence of Pain: 1100-1450*, is a complex, often contradictory and messy business. Grisly medieval capital punishments, which appear to moderns as the cruelly sadistic infliction of bodily pain for the purpose of warning "the masses" against violations of the social order, more correctly turn out, upon careful historical reflection, to be social offerings of redemptive suffering to the criminal violator.

If the relationship of even one official against a malefactor can be so complex, we might wonder how the law can possibly embrace and account for such human experience in the relatively simple commands of statutes or common law rules. Indeed, the articles in this issue attest to the complexity of human conflict, when the possibility of international travel brings religious minorities into tense clashes with the traditions of secular states, international human rights norms into conflict with minority religious customs, natural law theory into tension with the positive law of nations.

In this issue, the views of theologian John Calvin and jurist Sir William Blackstone on the relationship between natural law, the natural order, and positive law, are explored theologically in what William Brewbaker terms *Found Law, Made Law and Creation: Reconsidering Blackstone's Declaratory Theory*. Brewbaker claims that Blackstone's "commitment to divine law as the root of law in general . . . . and to the authority of the Bible" in "finding law," while superficially appealing to Christian jurisprudential theorists, in fact fails to reflect a robust Christian theology of creation. David Weir's *Early New England: A Covenanted Society*, reviewed by Robert Bruce Mullin, pursues the more historical question of whether covenantal religion in fact influenced the law of Puritan New England.

Contrasting the Roman Catholic stream of natural law represented by Russell Hittinger and J. Budziszewski, C. Scott Pryor demonstrates how Calvin's natural law arguments were both central to his theology and distinctive from the Catholic stream. He pessimistically suggests that, given postmodern society's "rejection of order in nature," Calvin's doctrine of God's common grace that has "bridle[d] the worst of human corruption" in the past may offer less hope for the postmodern world.

Kathleen Brady and co-authors Pablo Lerner and Alfredo Mordechai Rabello take up juridical aspects of the conflict between minority religious groups and law-making majorities. Brady continues a debate with critics of her view that the First Amendment must protect the distinctive autonomy of religious groups to act internally in community because these groups provide important social capital in the generation of new forms of effective community. In reply, Marci Hamilton sketches the serious harms to individuals and social norms that can occur if religious organizations are permitted to ignore protective legal regulations. Hamilton's position is also engaged by William Stacy Johnson, who finds Hamilton's portrayal of religious organizations gone amok as insufficient to justify the rollback in religious freedom occasioned by recent cases such as *Employment Division v. Smith.*

Lerner and Rabello wade into the tempest of French politics as the French nation, like others in Europe, grapples with challenges to its cherished and distinctive notion of *laicité.* In this case, they argue that the international human right to freedom of religion or belief requires that France respect the rights of Jewish and Muslim religious minorities to engage in religious ritual slaughter even when their practices contradict cherished modern beliefs about the proper humane treatment of animals.

Emily Albrink Hartigan, by contrast, wonders about dialogical possibilities in minority-majority encounters, as when Muslim women encounter Western women's "human rights" demands to liberate them, and asks whether it is possible to sort the hegemonic from the liberating in such dialogues. She considers whether dialogical play that rejects secular or post-secular foundations in order to "teeter on the edge, in hope of dancing toward the abyss, the void, with my sisters" is a possible way forward.

We also offer two book reviews on Islamic law, one by Sayeed S. Rahman describing Mawil Izzi Dien's new book using both Western and Islamic perspectives to provide an historical overview of Islamic law and to probe its divine and human sources. The other, Nerina Rustomji's review of Yossef Rapoport's book on *Marriage, Money, and Divorce in Medieval Islamic Society*, offers interesting comparisons with modern secular and religious practices of marriage and divorce.

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