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EDITORIAL

This issue of the *Journal of Law and Religion* contains a wide-ranging collection of discerning and thoughtful work, beginning with David Flatto's "Justice Retold: The Seminal Narrations of the Trial of the Judean King." Flatto engages with—and, along the way, critiques aspects of—the thinking of one of the most creative and admired American legal scholars of the latter part of the twentieth century: Robert Cover. "Heeding Cover's appeal to expand the legal canon by examining rich literary texts from the past," Flatto writes, "this article explores a critical dimension of such texts that is often neglected . . . by analyzing several renditions of a profound early myth involving a fundamental clash between the rule of law and sovereign power . . . ."

In "From Substantial Burden on Religion to Diminished Spiritual Fulfillment: The San Francisco Peaks Case and the Misunderstanding of Native American Religion," Michael McNally explains that the understanding of Native American religious traditions that has prevailed in the US Supreme Court and, therefore, in other federal courts is not only mistaken; it is a misunderstanding that has led, McNally argues, to "the erosion of any meaningful American commitment to religious freedom to Native peoples." Many *JLR* readers are familiar with Winnifred Fallers Sullivan's book *The Impossibility of Religious Freedom* (Princeton: Princeton University Press, 2007).[1] McNally writes, in concluding his article, that "[a]s much as I agree in general with Sullivan's appraisal of the problems accompanying minority religious communities' claims to justice under the discourse of religious freedom," he nonetheless sees a way forward—but one that would require the federal courts to correct, in the ways that McNally carefully explicates, their corrosive misapprehension of Native American religious traditions.

Like McNally's article, the article by Gideon Sapir and Daniel Statman is about the failure of a professedly liberal-democratic state to treat one or more religious minorities in accord with the liberal-democratic ideal of religious freedom. Sapir and Statman's particular focus—as the title of their article, "Minority Religions in Israel," indicates—is on Israel's treatment of the religious minorities in its midst. Sapir and Statman inform us that "roughly 80 percent of Israel's population are Jews, 15 percent Muslims, 2.5 percent Druze, and 2.5 percent Christians." In the course of elaborating their critique, which is based principally, though not solely, on the ideal of religious freedom, Sapir and Statman rehearse concisely and respond effectively to the rationales—including, of course, the rationale that "Israel is the national state of the Jewish people"—that are typically proffered in attempts to defend the government policies that Sapir and Statman decry.

Whereas the preceding two articles are concerned with freedom of religion, the next article is concerned with freedom of speech. In "Austria's Law against Defamation of Religion: A Case Study," Greg Taylor addresses the vigorously contested issue of when a law banning or otherwise regulating speech that is hostile to religion or to religious believers—or to both—crosses the line by violating the human right to freedom of speech. Taylor's informative "case study" explains that Austria's "anti-blasphemy law deviates from the model often found in English-speaking countries by focusing not on incitement to hatred or violence among nonbelievers, but rather on protecting

1 Readers may also be interested in the symposium issue guest-edited by Sullivan and Elizabeth Shakman Hurd, "Re-thinking Religious Freedom," *Journal of Law and Religion* 29, no. 3 (2014).

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the feelings of believers from 'justified offense'; . . . this makes the Austrian law one against defamation of religion, such as some Islamic countries have recently advocated." Taylor's article is both critical and constructive: Taylor contends that the Austrian law falls well short of the ideal of freedom of speech; he also specifies revisions to the law that would bring it into alignment with that ideal.

Levi Cooper's "Towards a Judicial Biography of Rabbi Shneur Zalman of Liady" contributes to scholarship on the modern religious movement known as Hasidism by focusing on the legal writings of an especially important Hasidic master, religious thinker, and jurist: Rabbi Shneur Zalman (ca. 1745–1812). Cooper reports that Shneur Zalman's "legacy continues to animate contemporary Judaism, primarily through his spiritual heirs—the Lubavitch Hasidic community—and through his Hasidic thought known as Chabad." Previous scholarship on Shneur Zalman has largely neglected his legal writings. Cooper's article—which is a kind of prologue to future research—contends "that without serious analysis of Rabbi Shneur Zalman's legal writings—or for that matter, legal writings of Hasidic masters in general—any intellectual history of this religious movement will be incomplete."

In the book review section of this issue, Linda McClain provides a timely postscript to our previous issue's (29:3) symposium on Ronald Dworkin's *Religion without God*. With particular reference to women's reproductive health, McClain applies Dworkin's religious freedom jurisprudence to the Affordable Care Act and the debate that it has spawned over the "contraception mandate." A review essay by Athanasios Giocas discusses two new books on political theology in the Orthodox Christian tradition, including a book by Aristotle Papanikolaou, a Senior Fellow of the Center for the Study of Law and Religion. Finally, Tazeen Ali assesses normative and political themes in a new book by historian Rachel Sturman on liberalism, religious law, and women's rights in colonial India.

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