

The broad theme of law, religion and human flourishing was expansively interpreted. Governmental interactions with Islamic reform movements were considered by one panel, while development and overseas aid were the subject of another. Controversial subjects such as corruption, extremism and forced migration were also the subject of discussion. Gender and marriage were recurring themes in various sessions, as was the impact of news and social media on the concept of human flourishing. Diet and the ritual slaughter of animals also featured, as did indigenous religions, particularly their interaction with Western concepts of human rights.

The best of the papers will be published next year in a collected volume, to add to the growing library of ACLARS conference papers which makes the work and achievement of the Consortium readily available to the academic world and those in positions of leadership or influence. A draft call for papers is already in circulation for next year's conference, to be held at the University of Gaborone in Botswana, addressing law, religion and environment.

doi:10.1017/S0956618X18000510

The McDonald Distinguished Christian Scholars Conference: Is Religious Liberty Under Threat? Trans-Atlantic Perspectives

University of Oxford, 23–25 May 2018

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Co-hosted by the McDonald Centre at the University of Oxford and the Center for the Study of Law and Religion at Emory University, this public conference featured lectures by a dozen leading scholars from the United States and the United Kingdom. The conference marked the tenth anniversary of the McDonald Centre and was the culminating event in the McDonald Distinguished Christian Scholar Lecture Series, hosted by the Emory Law and Religion Center. The McDonald Agape Foundation provided generous funding.

The conference opened with a keynote address by Mary Ann Glendon, Learned Hand Professor of Law at Harvard Law School, and former

Commissioner on the United States Commission of International Religious Freedom. It closed with a keynote speech by Sir Mark Hedley, former Justice at the High Court in the United Kingdom, who has adjudicated several complex cases on religious objections to health care and on euthanasia. In between, pairs of UK and US jurists teamed up to address common themes: Mark Hill, QC (Cardiff, Pretoria) and John Witte, Jr (Emory) on the historical foundations of religious freedom in the Western legal tradition; Roger Trigg (Warwick) and Francis Beckwith (Baylor) on the distinct qualities of freedom of conscience and religion in modern political and scientific theory; Julian Rivers (Bristol) and Kathleen Brady (Emory) on the growing tension between religious freedom and other fundamental rights; Norman Doe (Cardiff) and Richard Garnett (Notre Dame) on the roles of modern churches in the protection of human rights and religious freedom; and Nigel Biggar (Oxford) and Cécile Laborde (Oxford) on the place of soft religious establishments in modern liberal societies.

Almost every speaker answered the conference question – ‘is religious liberty under threat?’ – with a clear and worrisome ‘yes’. Mary Ann Glendon mapped the bitter persecution, genocide, rape, enslavement, forced displacement and forced conversion of Christians, Jews, Muslims, Baha’is, Yazidis, Hindus, Sikhs and others in more than a hundred countries around the world, noting that their grim plight is far too little known or reported even by human rights groups or international diplomats. The picture is less dire in the liberal West: ‘Few victims of religious persecution have lost their lives, but many are losing their livelihoods and ability to participate in public life while being true to their deepest beliefs.’ Even worse, many liberal citizens and academics now think that religion and religious freedom are no longer worth protecting or must at least give way to other fundamental rights claims. Julian Rivers sounded a similar theme, showing how aggressive new norms of equality and non-discrimination in the United Kingdom are eclipsing the religious freedom of individuals and groups, and empowering government to second guess and overturn internal religious decisions that have long been impervious to secular judgment.

Richard Garnett, Francis Beckwith and Kathleen Brady all showed how modern culture wars over sexual liberty have led private citizens, corporations and government officials alike to attack religious freedom as an outmoded impediment to true liberty for all. Roger Trigg argued that modern scientific and rational philosophies often undercut religious arguments in modern discourse. Norman Doe showed that, besides the strong statements of Vatican II, many modern churches have failed to develop a sturdy and distinct enough theology or church law of human rights and religious freedom to offer sustained criticisms of the shifting secular status quo. And Mark Hedley documented poignantly how the deprecation of religion and religious liberty has made it

doubly difficult for courts to deal with religious objections to contraception, abortion, receipt of health care or end-of-life decisions.

To be sure, several speakers made clear that some of this hostility to religion and religious freedom has been self-inflicted by some of the church's own failings – the paedophilia crisis brought on by selected clergy, the financial self-dealing by some enterprising church leaders and members, the worldly pleasures and pursuits that the church has sometimes embraced at the cost of true sacrificial discipleship. Some of it is also a function of the increasing worry about the rapid growth of religious extremism, terrorism and xenophobia and persistent practices of patriarchy, chauvinism and inequality. But a good deal of the attack on religious freedom is driven by those who pretend to be neutral, rational liberals in favour of liberty, but in fact are seeking to establish and enforce ruthlessly their own secular forms of faith in the name of far less loving and forgiving gods than the Trinitarian God of Christianity, who created the world with natural law and order, sent his only Son to his death to redeem it, and inspires us to do good, seek justice and love God, neighbour and self.

Religious freedom should not be so imperilled. After all, as Mark Hill and John Witte both documented, the Anglo-American common law tradition learned, through hard and cruel experience, that religious freedom is a cornerstone of ordered liberty. In England, religious freedom has been a key and an ever more inclusive guarantee set out in legal documents from the Magna Carta (1215), via the English Bill of Rights (1689) and Toleration Act (1689), to the Human Rights Act of 1998. In the United States, religious freedom is the first guarantee in the Bill of Rights of 1789, and it still stands tall in the latest federal and state religious freedom restoration acts. The Universal Declaration of Human Rights (1948), too, and its international human instruments progeny, have made freedom of religion, belief and conscience, and freedom against religious discrimination, a centrepiece of human dignity, fraternity, liberty and peace. To deprecate religious freedom is to violate clear and long-standing legal commands. Moreover, while the sad and unseemly side of the modern church often captures the media, several speakers argued that we tend to ignore the powerful witness, inspiration and service that the church offers the world through its countless forms and forums of charity and ministry in sanctuaries, charities, schools, hospices, orphanages, diaconal centres, emergency shelters, foodbanks, counselling centres, and health and humanitarian missions and programmes of all sorts. We tend to ignore the critical role that religious organisations play as strong buffers against state overreach, as generous advocates of human rights for all, and as vital zones of liberty in times of political crisis and transition. Churches provide massive and incalculable public goods that the law should robustly protect – ‘much like the law protects clean air and clean water’, in Richard Garnett’s apt phrase.

Robust protection of religious freedom in modern liberal societies might even take the form of a soft religious establishment, as prevails today in Anglican England, Lutheran Scandinavia, Catholic Spain or Orthodox Greece. This was the argument of the Anglican divine Nigel Biggar, with surprising support from the liberal philosopher Cécile Laborde. A modern liberal state, Biggar argued, ‘needs more than liberal laws and rights; it needs citizens who are so formed as to vote for liberal laws, to obey them and to exercise their legal rights with liberality’. These laws and rights depend on ‘comprehensive doctrines’ to give them content, coherence and cogency and to form citizens who respect and protect them. Since so many dangerous and ‘unreasonable comprehensive doctrines’ are afoot today, the liberal state would do well to maintain a soft establishment of generous and peaceable historical religions as a means of ‘defending and promoting a culture that forms liberal citizens’. Laborde responded, however, that such religious establishments can work only so long as they can accommodate competing visions of the good life and good society, particularly those of newly arrived Muslim émigrés and newly powerful LGBTQ+ advocates. And certain features of traditional religious establishments – such as appointing clergy, assigning bishops to the House of Lords or holding royal weddings in Anglican cathedrals alone – might be better left to private choice than to state mandate.

doi:10.1017/S0956618X18000522

Christian Law Panel of Experts

Corpus Christi College, Oxford, 25–26 May 2018

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As readers will know, a Panel of Experts, convened by Mark Hill QC, met in Rome in 2013 to explore the category principles of Christian law as proposed by Norman Doe in *Christian Law* (Cambridge, 2013). It continued to meet each year in Rome until in 2016 it agreed on a Statement of Principles of Christian Law.² In this, panel members from eight historic churches unearthed

2 Published in this *Journal*: (2017) 19 *Ecc LJ* 138–155.