
Index

- AAN v Secretary of State for the Home Department* (UKUT) 404, 405, 406, 418
- Abington School District v Schempp* (USSC) 278
- abortion 381, 390–3, 395
- AC v Manitoba (Director of Child and Family Services)* (SCC) 208
- accommodation of religion *see* religious liberty as human right, debates over
- An account of the European settlements in America* (Burke) 69–70
- Achbita v G4S Secure Solutions NV* (CJEU) 374–5
- Adler v Ontario* (SCC) 167–8
- Advocates' Society 434
- Affordable Care Act 81, 270–2, 283
- Afghanistan
Constitution 159
- After Virtue* (MacIntyre) 50–1
- agnosticism 14, 142, 231, 289, 295, 300, 307, 314, 334, 367
- Agrama, Hussein Ali 202
- Ahdar, Rex xiii, 2–15, 37, 40, 45, 50, 101, 178, 184, 186, 234, 380, 390, 393, 398
- Ahmed, Dawood 163
- Ahmed, Farrah 240–60
- Ahmed v Ahad* (EWCA) 404, 405–6, 418
- Albert, Richard 129, 154–77
- Alberta v Hutterian Brethren of Wilson Colony* (SCC) 207
- Alekseev v Russian Federation* (CCPR) 327
- Alekseyev v Russia* (ECtHR) 347
- Algeria
Constitution 159–60
- alternative dispute resolution (ADR) *see* religious law enforcement, in India
- amendments to constitutions *see* religion, secularism and limits on constitutional amendment
- American Civil Liberties Union (ACLU) 119, 392
- American Declaration of Independence, on equality 40
- American Pledge of Allegiance 44–5
- Anglican clergy *see* freedom of religion, rise of secularism and British workplace
- Angola
Constitution 161
- Antonov, Mikhail 346
- arbitration *see* religious law enforcement, in India; Shari'a law
- Argentina, majoritarian preference for religion 291
- Aristotle 38
- Armenia, lack of alternatives to military service 389–90
- Articles of Confederation (1777) 154
- Asad, Talal 201–2, 215–16
- Atatürk, Mustafa Kemal 168, 169
- atheism 73, 79–80, 85, 90–1, 98, 231, 287, 289, 294, 299–300, 304, 307, 314, 318, 329, 334, 387, 417
- Audi, Robert 105–6, 112
- Augustine, Saint 80, 91–8, 291
- Austin, John 56
- Australia
Constitution 460–1
Family Law Act (1975) 460
Law Reform Commission 461–2
Royal Commission 446, 447, 455–6, 458–64
Royal Commissions Act (1902) 461–2
Uniform Evidence Act (1995) 461
- Austria, criminalization of blasphemy 181
- Awaaz-e-Niswan 255
- Bahrain
Constitution 160
- Bakan, Joel 208
- Balinese Hinduism 150
- Bangladesh, penal laws as offences against religion 187
- Baptists 107
- Barker, Renae 6, 397–419
- Bartholomew, Christine 454
- Barthorpe v Exeter Diocesan Board of Finance* (UKEAT) 359
- Baumgardt, David 76–7
- Bayatyan v Armenia* (ECtHR) 389
- Beaman, Lori G. 437
- Belgium, headscarf ban 298
- belief and religion 287–9, 315

- believing without belonging 228–9
 Benedict, Pope 97
 Benson, Iain T. 437
 Bentham, Jeremy 53–4, 447–8, 449, 462
 Bentham and biblical law 53–78
 arguments for opposition 71–8
 on legal code, Messiah analogies and *Torah* 75–8
 materialist challenge 72–3
 neophiliac challenge 71–2
 secular challenge 73–4
 biblical law, Burnside definition 57
A Comment on the Commentaries 54–9
 Mosaic Law and 55–6, 57–9, 62, 66, 70
 opposition to authority of biblical law 59–70
 application of biblical law to society as damaging 69–70
 biblical law as subservient to utility 65–7, 70, 74, 75, 76, 77
 Jesus as inconsistent on biblical law 63–4
 lack of binding moral law 60–2
 New Testament as inconsistent on biblical law 62–4
 Paul as inconsistent on biblical law 64–5
 proponents as fanatics/lunatics 67–9
 Berg, Thomas 109
 Berger, Benjamin L. 11, 138, 198–220
 Berman, Harold 4, 10, 45
 Bharatiya Muslim Mahila Aandolan 255, 257
 Bhargava, Rajeev 195, 202
 Bible
 authority of 70
 citations of 61–5, 77
 enduring influence of 69
 Ten Commandments 56
 see also Bentham and biblical law
 Bielefeldt, Heiner 353
 Bijsterveld, Sophie van 354–5
 Bilgrami, Akeel 193–4
Birmingham Mosque Trust v Alavi (UKEAT) 360
 Black, Donald 29
 Black, Galen 110
 Blackstone, William 67–9
 blasphemy and freedom of speech 181, 194, 195, 328–9
 Bob Jones University 435
 Boniface, Pope 291
Book of Fallacies (Bentham) 70–1
 Bouchard, Gérard 201
Bouagnaoui and ADDH v Micropole SA (CJEU) 374–5
 Bou-Habib, Paul 111
 Bouteldja, Naima 409, 415
 Bradney, Anthony 16, 34
 Brady, Kathleen 6, 84, 103–5, 121
 Brems, Eva 409
 Brennan, Frank 456, 459, 461, 462
 Brennan, William J. 147, 278–9
 British Columbia, Canada
 British Columbia Human Rights Act 425
 British Columbia Minister of Advanced Education 425
 court cases regarding Trinity Western University 430–1, 438
 British Columbia College of Teachers 426–7
 Brownsword, Roger 13
Bruker v Markovitz (SCC) 213–14
 Bryson, Mary 438
 Buber, Martin 128
 Buckingham, Janet Epp 420–41
 Buddhists 19, 24, 205–6
 governed by Hindu personal law in India 249
 state control over Sanghas 187–8
Bull v Hall (UKSC) 374
 Bullock, Katherine 399
 Burke, Edmund 69–70
 Burns, J. H. 67
 Burnside, Jonathan 11, 53–78
burqas/niqabs in courtrooms 397–419
 English court terminology and 399–400
 multi-jurisdictional cases 401–6
 appeals 404–6
 comparison (table) 402
 court appearances 406
 as witnesses 403–4
 witnesses as parties 403
 source of witness interviews 400–1
 viewpoints of women participants in cases 407–16, 417, 418
 freedom of religion 409–11
 religion and modesty 407–9
 variety, flexibility and choice 411–16
 see also headscarf ban
 Burrows, John 220
 Burundi
 Constitution 161
Burwell v Hobby Lobby (USSC) 81, 270–1, 283
 Bussey, Barry 438

- Calvin, John 60, 291
 Calvinism 136, 142, 192, 222
 Canada
 Bill 60, Charter of Québec Values 216–17
 Charter of Rights and Freedoms 205, 210,
 216, 218, 296, 420, 421, 422, 425,
 431–2, 433, 435, 439, 448–9
 Civil Marriage Act 424, 431
 Constitution 166–7
 Constitution Acts (1867/1982) 166–7,
 436–7
 definition of marriage 422–3
 judicial trends in religious freedom cases
 287
 proposed Shari'a arbitration tribunals in
 Ontario 213, 217, 240
 religious diversity 201
 see also Supreme Court of Canada (SCC);
 Trinity Western University, School of
 Law
 Canadian Bar Association 434
 Canadian Civil Liberties Association 434
 Canadian Council of Law Deans 435
 Casanova, José 200
*The Catholic Child Welfare Society v Various
 Claimants* (UKSC) 366
 Cavanaugh, William 93
 Central African Republic
 Constitution 161
 Centre for Civil and Political Rights (CCPR)
 322–3, 386–7
 ceremonial deism 209, 291
 Chad
 Constitution 161
 Chaplin, Jonathan 224
 Chenier, Elise 438
 child sex abuse *see* religious confession
 privilege
 Christian Coalition 119
*Christian Education South Africa v Minister
 of Education* (SACC) 295
 Christianity
 equality and 39–41
 ethical continuity with the *Torah* 61–3
 gender-differentiated family law, religion
 comparisons 243–8
 history of separatism 136
 human right to religious liberty 106
 idolatry 93–6
 imperial state and emergence of 149
 influence on select EU country laws 181
 liberalism and 227–8
 limits on temporal power 98
 marriage equality and 436
 roots of state secularism and 291
 see also religious confession privilege
 church autonomy *see* faith-based
 organizations (FBOs), European state
 boundaries of
 Church of England
 Bentham's opposition to 73
 on confession privilege 444
 employment status of ministers of religion
 357–66
 interlocking jigsaw analogy and 138–42,
 151
 majoritarian preference for religion and 291
 Queen's role as existential encounter 139
 within restrained establishment 236–7
 Church of Jesus Christ of Latter-Day Saints
 xii–xiii, xvi, 324, 422
 circumcision 64–5, 68–9
City of Boerne v Flores (USSC) 110–11
City of God (Augustine) 92
 civil religion *see* France; religion, secularism
 and limits on constitutional amendment
 Civil Rights Movement (1960s) 45
 civil society 58, 116, 153, 163, 167, 221–2,
 227, 234, 236, 338, 413
 civil society organizations *see* faith-based
 organizations (FBOs), European state
 boundaries of
 classical liberalism *see* Bentham and biblical
 law
 clergy, state regulation of 187–8
 Cohen, Jean L. 193
 Coke, Edward 444
Coker v Diocese of Southwark (EWCA) 360,
 364–5
 Cole, William A. 445, 448
A Comment on the Commentaries (Bentham)
 54–9
 see also Bentham and biblical law
 commodification of religion (Ward) 88–91, 92
 communal dimension of religious freedom
 227–8
 Comte, Auguste 16
 ConAgra *see* Hebrew National
Confessions (Augustine) 92
 confidential religious communications *see*
 religious confession privilege
 Confucianism 15–16
 Congo, Republic of
 Constitution 161
 conscientious objection 103, 378–96
 challenges within new claims 380–2

- under ECHR 388–90
- forms of legal protection 382–5
- in healthcare 390–5
- Hobbes on 113–15
- under ICCPR 385–8
- to military service 378–81, 385–90
- rights violation in Greece 296–7
- Conseil Constitutionnel*, on secularism 292
- constitutional amendment *see* religion, secularism and limits on constitutional amendment
- constitutional identity 176–7
- consumerism and religion *see* Dworkin, religion and end of religious liberty
- contextualism, definition 273
 - see also* judges and religious question doctrine in US courts
- contraception coverage, in Affordable Care Act 81, 270–2, 283
- co-religionist commerce (Helfand and Richman) 263
- Cornwell, John 446
- Côte d'Ivoire
 - Constitution 161
- Cotterrell, Roger 18–24, 26–7, 28, 31–2, 34, 35
- Council of Europe
 - Right to Conscientious Objection in Lawful Medical Care Resolution (2010) 394–5
- Court of Justice of the European Union (CJEU)
 - on direct/indirect discrimination 374–5
- Cover, Robert 146–7
- Cox, Brian 11
- Craig, Elaine 434
- Cranmer, Frank 450–1, 454–5
- culture wars 24, 381

- Dahlab v Switzerland* (ECtHR) 319–21, 329
- Dane, Perry 6, 125–53
- Dar ul Qaza* 258
- The Dark Box: A Secret History of Confession* (Cornwell) 446
- Dataism 12–13
- Davie, Grace 141–2
- Davies v Presbyterian Church of Wales* (UKHoL) 359–60
- Dawkins, Richard 287
- de Sousa e Brito, José 383
- Delaware
 - Constitution 161
- Descartes, René 288

- Deuteronomy
 - citations of 65, 75–6
 - political philosophy of 72
- Dinwiddy, John 55
- Discrimination (Employment and Occupation) Convention (ILO) 323
- disestablishment *see* religion-state dispensations
- disputes with the state *see* religious disputes, justiciability and adjudication of
- Doe, Norman 5, 25–8, 30, 31–3, 34
- Dogru v France* (ECtHR) 320–1
- DoGru Yol Partisi (Turkey) 318
- Donaghue, Stephen 461–2
- Dr JP v Canada* (CCPR) 386
- Durham Jr, W Cole 5–6, 33, 179, 227, 339, 344, 346, 375, 379
- Durkheim, Émile 20, 29
- Dworkin, religion and end of religious liberty 79–102
 - age of authenticity and 88–91
 - Augustinian alternative 80–1, 91–8
 - Dworkin's religion and political morality 80, 85–7, 96
 - governmental liberal neutrality and 83–4
 - religious liberty as not special right 80, 81–5
 - religious longing and pluralism 98–101
- Dworkin, Ronald 11, 42, 111, 114

- Eastern Europe, post-Soviet rule 345–6
- Eastern Orthodox Church of Christ 225, 290
- Ecuador
 - Constitution 158–9
- Edge, Peter W. 3, 6, 10, 126, 145
- egalitarianism *see* equality, religion, and nihilism
- Egan v Canada* (SCC) 422
- Egypt
 - Constitution 161
 - juridical autonomy and personal status within religious communities 189
 - secularism 202
- Ehrlich, Eugene 29–30
- Einstein, Albert 11, 79, 287
- Eisgruber, Christopher L. 84, 109, 269, 280–1
- Eliot, T. S. 44–5, 47, 49
- Elizabeth II, Queen 139, 141
- Elk Grove v Nedow* (USSC) 209
- Ellul, Jacques 10
- Elster, Jon 177

- Elzahed v Commonwealth of Australia and State of NSW* (NSWSC) 403, 404, 405, 406, 408
- employee obligation and organisational ethos 323–6
- Employment Division v Smith* (USSC) 81–2, 110
- ‘The Empty Idea of Equality’ (Westen) 47–8, 49–50, 52
- equality, religion, and nihilism 37–52
 - emptiness of equality 47–8
 - equality and Judeo-Christian religion 38–41
 - equality and nihilism 49–52
 - equality as independent of religion 41–4
 - equality as negation 48–9
 - equality as new orthodoxy 44–7
- Essay on the Influence of Time and Place in Matters of Legislation* (Bentham) 77
- The Essence of Christianity* (Feuerbach) 72
- Establishment Clause (USA) 41, 107, 125–6, 131–3, 138, 142, 211, 266–9, 273–4, 276–8
- European Charter of Fundamental Rights 234
- European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) 224, 292, 309–10
 - conscientious objection 388–90
 - democracy as sole political model for 335–7
 - democratic society concept 311–12
 - freedom of expression (Article 10) 342
 - freedom of religion (Article 9) 81, 231, 298–9, 316–17, 318, 321–2, 325–6, 334, 335–6, 337, 342, 349, 361–2, 367, 383–4, 388, 389, 393–5, 413, 449, 455
 - hate speech 326
 - necessity of interference 310
 - non-discrimination based on religion (Article 14) 337, 388
 - personal autonomy (Article 8) 321, 324–5
 - prohibited destruction of another’s rights and freedoms (Article 17) 319
 - prohibited torture and inhumane punishment (Article 3) 388–9
 - religious pluralism 314
 - rule of law and democracy 337–8
 - security (Article 5) 341, 342
 - UK incorporation of 4–5
 - universality of human rights 332
- European Court of Human Rights (ECtHR) 224, 230
 - on balance of democracy and individual rights 305
 - on church autonomy 231–2
 - on church-state arrangements as compatible with ECHR 235
 - on conscientious objection 388–90, 393–5
 - on democracy and freedom of expression 313–14
 - on faith-based requirements of employer 323–5
 - on freedom of assembly 326–7
 - on freedom of expression 327–8
 - on freedom of religion 367–72, 413
 - on headscarf bans 209, 268, 318–19, 320–1, 329
 - on intent to destroy another’s rights and freedoms 319
 - on mandatory display of crucifixes in Italian public schools 147–9, 209
 - margin of appreciation doctrine 126, 149, 231–2, 298, 309, 320–1, 339–40, 371–2
 - on necessity of interference 312, 316–17
 - on noise nuisance by churches 298–9
 - proportionality and secular logic of 232–3
 - on proselytism 320–1, 329
 - religious freedom as positive right 233–4
 - on religious pluralism 230–1, 314, 337–9
 - on rights of conscientious objector in Greece 296–7
 - on Russia’s claims that Unification Church activities as threat to national security 348–50
 - on state neutrality and impartiality 292, 341–2
- European Court of Justice (ECJ) 234
- European Union (EU)
 - debates over crisis of secularism 202–3
 - deference to member states on church-state relations 224
 - Directive 2000/78/EC, occupational requirements 323, 374
 - External Action Service condemns Russian court decision 353
 - universal declarations 210
 - see also* faith-based organizations (FBOs), European state boundaries of
- Evangelical Christians xii, 11–12, 106, 291, 377, 428, 434, 439
 - see also* Trinity Western University, School of Law
- Evans, Carolyn 6, 207, 233, 235, 321

- Eweida v United Kingdom* (ECtHR) 367–9, 371–2, 394, 413
 exorcism 2, 9
- face veil cases *see burqas/niqabs* in courtrooms
- Failingier, Marie 2–3, 6
- faith-based organizations (FBOs), European state boundaries of 221–39
 boundaries, definition 221
 communal dimension 227–8, 230
 ECHR and ECtHR decisions
 church autonomy 231–2
 proportionality and secular logic of 232–3
 religious freedom as positive right 233–4
 religious pluralism norm 230–1
 historical influences on positive right 234–8
 Dutch principled pluralism 237
 English restrained establishment 236–7
 Enlightenment legacy 235
 French *laïcité* 236
 three models of state-church arrangements 235–6
 natural right 229–30
 rationalist vs. pluralist liberalism 228–9
 subnational church-state relations 223–6
 post-secular society and 226
 secularization thesis and religious diversity 224–5
 terminology 222–3
- Federal Rules of Civil Procedure (US) 280
 Federal Rules of Evidence (US) 280
 Federation of Law Societies of Canada (FLSC) 425, 430, 431, 432–3
- Feinberg, Joel 42
- Fernández Martínez v Spain* (ECtHR) 231–2, 324–5
- Ferrari, Silvio 179
- Feuerbach, Ludwig 72
- Fletcher, George 42
- forum internum/forum externum see* religious confession privilege
- Foucault, Michel 16
- France
 bans on religious garb 132, 143
 constitutions of former African colonies 161–2
 Declaration of the Rights of Man and the Citizen (1789) 292
 doctrine of secularism 292
- French Cross-party Parliamentary Commission to Study the Wearing of the Full Veil 397
- Galllicanism and 144–6, 151
 headscarf ban 143, 146, 215–16, 292, 320–1
laïcité norm 125, 132, 133, 143–6, 161–2, 215–16, 236
- Francis, Pope 93, 95–6, 97
- Frankenberg, Günter 297
- Fredman, Sandra 343
- freedom of conscience *see* conscientious objection
- freedom of religion *see* human rights, changing narrative of; *individual conventions and legal cases*
- freedom of religion, rise of secularism and British workplace 357–77
 employment status of ministers of religion 357–66
 classical doctrine and 358–60
 recent English legal cases and 360–6
 vicarious liability and 366
 religious observance in secular workplace 367–76
 ECtHR decisions and 367–73
 English court decisions 373–6
 evaluation of validity of religious beliefs 368
 freedom of religion and 367
 obligatory nature of religious beliefs 368–9
 voluntary acquiescence and leaving job 369–73
- Free Exercise Clause (USA) xiii, 4, 9, 41, 43, 46, 81, 107, 112, 116, 138, 161, 193, 201, 271, 278, 400, 448, 453–4, 455, 459–61, 464
- Freeman v Department of Highway Safety and Motor Vehicles* (Fla. Dist. Ct. of App.) 414
- Frodeman, Robert 31
- G v St Gregory's Catholic Science College* (EWHC) 368
- Galllicanism 144–6, 151
- Gavaghan, Colin 13
- Gedicks, Fred 5
- Geertz, Clifford 120
- A General View of a Complete Code of Laws* (Bentham) 75

- German Federal Constitutional Court
 on butcher's preparation of meat for Sunni Muslims 295
 on religious holidays 293–4
- Germany
 Basic Law 173
 church tithe collection tax assistance 186
 cooperation with religious traditions 125–6
 criminalization of blasphemy 181
 religious holidays 293–4
- Gewirth, Alan 42
- Giddens, Anthony 18, 23
- Giniewski v France* (ECtHR) 327
- Ginsburg, Ruth Bader 270–1
- Glacier Resorts 7–8
- Gleichen, Carlde 417
- Goldstein, Jared A. 268–9
- Gouda, Moamen 163
- Graham, K. W. 449
- The Great Chain of Being* (Lovejoy) 38
- Greater Glasgow Health Board v Doogan* (UKSC) 392
- Greece
 Constitution 290
 criminalization of blasphemy 181
 ECtHR decisions on Jehovah's Witnesses and 333–6
 violation of conscientious objector's rights 296–7
- Greenawalt, Kent 4–5, 8, 50, 115, 120, 123, 133, 268, 278, 281
- Greene, Abner 6
- Griffiths, John 190–1
- Guinea
 Constitution 161
- Guru Nanak Temple v Sharry* (UKEAT) 360
- Gurvitch, Georges 29–30
- Guyot, Joseph-Nicolas 145
- Habermas, Jürgen 74
- Hallaq, W. B. 290
- Hambler, Andrew 393
- Handyside v United Kingdom* (ECtHR) 313–14
- Harari, Yuval Noah 11, 12
- Hare Krishna 348, 352
- Harris, Jonathan 76
- Harrison, Joel 5–6, 11, 79–102
- Hart, David Bentley 45
- Hart, H. L. A. 53, 56–7, 67, 68
- Hasan and Chaush v Bulgaria* (ECtHR) 231
- hate speech 311, 326–9, 343
- Hazon, Yoram 67
- headscarf ban
 in Belgium 298
 ECtHR decisions and 209, 268, 318–19, 320–1, 329
 in France 143, 146, 215–16, 292, 320–1
 in Switzerland 319–21
 in Turkey 297, 317–19
- healthcare, conscientious objection by
 medical professionals 390–5
- Hebrew Bible 61
- Hebrew National brand 265–8, 272, 273–4, 280
- Heimbeinder v Berkowitz* (USSC) 276
- Helfand, Michael A. xv, 5–6, 257, 262–63, 273
- Henry VIII, King 145
- heter iska* see permissible venture (*heter iska*), in Judaism
- High Court of South Africa
 on role of Jewish ecclesiastical court 302–3
- Hill, Mark 2, 6, 357–77
- Hinduism 15–16, 168, 213
 gender-differentiated family law, religion comparisons 243–8
- Hizb ut-Tahrir v Germany* (ECtHR) 319, 329
- Hobbes, Thomas 56, 104–5, 113–14, 115, 116, 117
- Hobby Lobby 81, 270–1, 283
- Homo Deus* (Harari) 11, 12
- Hooker, Richard 140–1, 151
- Horwitz, Paul 7, 142, 184, 230
- Hosanna-Tabor Evangelical Lutheran Church and School v Equal Employment Opportunity Commission* (USSC) 211–12
- Hudoyberganova v Uzbekistan* (CCPR) 322–3
- human rights, changing narrative of 331–55
 religion and security in Russia 344–54
 anti-extremism and counter-terrorism laws 335, 351–4
 constitutional and human rights framework 346–8
 historical context 345–6
 Jehovah's Witnesses and 342, 345, 350–1
 missionary organizations and 348–50
 religious freedom in democracies 333–40
 security and freedom of religion/belief 340–4
- human rights, role of 330
- Hurd, Elizabeth Shakman 107, 108
- Hyde v Hyde* (EWHC) 422
- hypergoods (Taylor) 105, 116–18

- idolatry, in Christianity 93–6
İA v Turkey (ECtHR) 327–8
 Imwinkelried, Edward 454
 India
 All India Muslim Women's Personal Law Board 255
 Constitution 170–2, 252, 253, 294, 303–4
 Hindu Adoptions and Maintenance Act (1956) 248
 Hindu Religious Endowments Board of Madras 294–5
 penal laws as offences against religion 187
 religious law with formal legal status 214
 see also religious law enforcement, in India
 Indian Supreme Court (SCC)
 basic structure doctrine 170–1
 defence of secularism 170–1
 on oversight of temples in Madras state 294–5
 Indigenous religion 6–8, 217–19
 Indonesia
 coercion toward Balinese Hindus as existential encounter 150
 Constitution 195
 draft Law on Inter-Religious Harmony 195
 post-independence monotheism principles 149–50
The Interaction of Law and Religion (Berman) 4
 interdisciplinarity *see* sociological approach to law and religion
 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
 inciteful racial discrimination (Article 4) 328
 International Covenant on Civil and Political Rights (ICCPR) 309–10
 conscientious objection 385–8
 democratic society concept 311–12
 derogation of rights in emergencies (Article 4) 342
 direct coercion prohibition (Article 18) 322–3
 freedom of assembly (Article 21) 312–14
 freedom of religion (Article 18) 336, 340, 342, 383–4, 386–7, 410, 411, 449, 459, 461
 freedom to change religion/belief (Article 18) 334
 gender equality principle (Article 3) 315, 317
 inciteful hate speech (Article 20) 326, 328
 infringement on honour and reputation by untrue assertions (Article 17) 328–9
 liberty of a person (Article 9) 341
 minority religion protection (Article 27) 340
 necessity of interference 310–11
 on primacy of religious pluralism 315
 prohibited destruction of another's rights and freedoms (Article 5) 319
 universality of human rights 332
 international human rights bodies and religious content 309–30
 demands of democratic society on the state 311–15
 doctrinal enquiry and 315–17
 dynamics of doctrinal support/opposition 326–9
 employee obligation incidental to organisational ethos 323–6
 threshold for intervention 317–23
 International Labour Organisation (ILO) Discrimination (Employment and Occupation) Convention 323
 Internet, regulation of religion on 13–14
 Iran
 Constitution 163–6, 171
 Guardian Council 166
 Iranian Revolution (1970s) 163–6
 as Islamic state 163–5
 Supplementary Fundamental Laws 159
 Ireland
 Children First Act (2015) 446, 458
 Commission of Inquiry into Child Abuse (Ryan Commission) 446, 456–7
 Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act (2012) 446, 457
 Islam
 butcher's preparation of meat for Sunni Muslims in Germany 295
 constitutionality of Sunni Islamic divorce in India 303–4
 Dar ul Qaza and dispute settlement in India 258
 ECtHR decisions on extremism within 319
 gender-differentiated family law, religion comparisons 243–8
 Hadith 412
 history of separatism 136
 legal orientation of 290
 liberal constitutionalism and 151
 marriage equality and 436

- Muslims as exempt from civil marriage codes in select countries 189–90
 personal law and religious ADR for Muslims in India 249, 253, 255, 256
 secular states with Muslims 157
 as state religion in select countries 157, 159–61, 162
 within Turkey 169
see also burqas/niqabs in courtrooms; headscarf ban; Koran
- Islamic Institute of Civil Justice 213, 240
- Israel
 Basic Law 290
 Declaration of Independence called for constitution 156
 Hours of Work and Rest Law 293
 juridical autonomy and personal status within religious communities 189
 Rabbinical courts 189
 religious law with formal legal status 214
- Israeli Supreme Court
 on accommodation of religious diversity without coercion 293
- Italy
 church tithe collection tax assistance 186
 mandatory display of crucifixes in public schools 147–9, 209, 233
- Jains, governed by Hindu personal law in India 249
- Japan
 Constitution and Meiji reforms 290
- Jefferson, Thomas 40–1, 48
- Jehovah's Witnesses
 ban on in Soviet Union 345, 350
 ECtHR decisions and 316, 317, 319, 333–6, 342, 350–1
 refusal of blood transfusions for minors 422
 religious confession privilege 450–1, 463
 Russian liquidation of 351–3
 unable to re-register in Russia, post 1997 law 348
- Jehovah's Witnesses of Moscow v Russia* (ECtHR) 316, 317, 319, 350–1
- Jeong v Republic of Korea* (HRC) 387
- Jesus 26, 32, 73, 75–82, 84, 88, 91, 95, 167, 317, 324–5, 378
- JGE v The Trustees of Portsmouth Roman Catholic Diocesan Trust* (EWCA) 366
- John-Paul II, Pope 327
- Jong-nam Kim v Republic of Korea* (HRC) 387–8
- Judaism
 erection of temporary huts on private property (*succahs*) 296
 gender-differentiated family law, religion comparisons 243–8
 imperial state and emergence of 149
 Orthodox theology and kosher food litigation 264–8, 269, 272, 273–4, 280, 284
 prohibition against usury 275–6
 use of ad hoc Beth Din tribunals 282, 302–3
- judges and religious question doctrine in US courts 262–85
 invocation of religious question doctrine 262–3, 268–72
 private law and contextualism 273–6
 private vs. public law
 challenge to religious question doctrine 276–85
 in Jewish permissible venture agreements 275–6
 in kosher food litigation 264–8, 269, 272, 273–4, 280, 284
- Kahn, Paul S. 206, 215, 217
- Kalaç v Turkey* (ECtHR) 321–2
- Karaduman v Turkey* (ECtHR) 317–18
- Kauper, Paul G. 279
- Keenan, Marie 446, 447, 458, 459, 462
- Kesavananda Bharati Sripadagalvaru v Kerala* (SCC) 170–1
- Khaira v Shergill* (UKSC) 368
- Khomeini, Ayatollah 164–6
- King, Martin Luther, Jr. 45, 136
- Kiss, Alexandre 313–14
- Kiviorg, Merilin 331–55
- Kokkinakis v Greece* (ECtHR) 231, 320, 333–6
- Konstantin Markin v Russia* (ECtHR) 347
- Koppelman, Andrew 6, 46, 103–23, 268
- Koran
 as incompatible with gender equality 320
 on veils for Muslim women 412
- Korea, lack of alternatives to military service 386–8
- kosher food litigation 264–8, 269, 272, 273–4, 280, 284
- Krohn, Wolfgang 33
- Krygier, Martin 220
- Ktunaxa First Nation 7–8

- Ktunaxa Nation v British Columbia (Minister of Forests, Lands and Natural Resource Operations)* (SCC) 7–8, 217–19
- Kurzweil, Ray 12–13
- Kuteh v Dartford and Gravesham NHS Trust (England and Wales: Unfair Dismissal)* (UKET) 376
- Kuyper, Abraham 142
- Kymlicka, Will 185
- Kyrgyzstan, ban on Unification Church 353
- Laborde, Cécile 84, 108–9, 115, 122, 144, 193
- Ladele v Islington LBC* (EWCA) 371–3
- laïcité* norm *see* France
- Larissis v Greece* (ECtHR) 320
- Lautsi v Italy* (ECtHR) 147–9, 209, 233
- Law and Religion in Europe* (Doe) 26
- law as parasitic discipline (Bradney) 16, 34
- Law of Moses *see* Bentham and biblical law
- Law Society of British Columbia (LSBC) 425, 430–1
- Law Society of Upper Canada (LSUC) 427–30, 439
- Laws of Ecclesiastical Polity* (Hooker) 140–1
- Laycock, Douglas 5, 43, 184, 186, 382
- Lazarus, Liora 344
- Lebanon, juridical autonomy and personal status within religious communities 189
- Lechner, Frank 192
- Lee v Ashers Baking Co Ltd* (NICty) 373–4
- Leela Förderkreis EV v Germany* (ECtHR) 327
- Leicester, Jonathan 287
- Leigh, Ian 5, 186, 372, 378–96
- Lemon-test 291
- Lerner, Hanna 196
- A Letter Concerning Toleration* (Locke) 183–4, 268
- Leyla Sahin v Turkey* (ECtHR) 209, 317–19, 321, 329
- LGBT rights 43, 46, 373–4
see also Trinity Western University, School of Law
- liberal constitutionalism and the secular 198–220
impacts on constitutional legitimacy and authority 204–19
centrality of rights constitutionalism 210–14
fading salience of sovereignty and 214–19
proportionality and constitutional adjudication 204–9
religion and the unsettling of secularism 200–4
- liberal neutralitarianism 112–14, 116, 118
- liberal neutrality and unfairness objection 104–5
- Locke, John 43, 136, 155, 183–4, 268
see also religion, secularism and limits on constitutional amendment
- Long, D. Stephen 95
- Lovejoy, Arthur O. 38
- Lupu, Ira C. 268, 269
- Luther, Martin 291
- Lutheran Church 125, 138, 152, 211, 291
- Lyng v Northwest Indian Cemetery Protective Association* (USSC) 111
- MacDougall, Bruce 427
- MacIntyre, Alasdair 50–1
- Macklem, Timothy 120
- Maclure, Jocelyn 111, 115, 116, 195–6
- Madison, James 40–1, 135, 137–8, 147
- Magarey, Kirsty 460–2
- Mahmood, Saba 118
- Malaysia
penal laws as offences against religion 187
state jurisdictional pluralism 189–90
- Mali
Constitution 161, 162
- Mälksoo, Lauri 346
- mandatory reporting of child sex abuse *see* religious confession privilege
- Mandla v Lee* (UKHoL) 373
- Mansfield, Harvey C. 155
- margin of appreciation doctrine 126, 149, 231–2, 298, 309, 320–1, 339–40, 371–2
- marriage equality 37, 46, 49, 427
- Martínez-Torrón, Javier 339
- Marx, Karl 29, 165
- Mason, George 41
- May, Simon Cabulea 115
- Mayeux v Charlet* (Sup. Ct. of La.) 443, 452–4, 455, 460, 463
- McArdle, Michael Joseph 446–7
- McClellan, Peter 460
- McConnell, Michael 4, 5, 46, 105, 227
- McCrudden, Christopher 332, 355
- McGuinty, Dalton 217
- McNally, John 462
- McNichol, Suzanne 449, 459

- Memorial and Remonstrance Against Religious Assessments* (Madison) 135, 137–8
- McCrae, Ronan 6, 224
- memory, fallibility of 460
- Mennonites, conscientious objection 103
- Merezhkovsky, Dmitry Sergeyeovich 128
- Methodist Church 363
- Methodist Conference v Parfitt* (UKSC) 359, 362–3
- Mexico
Constitution 158
- Miglin v Miglin* (SCC) 256–7
- Milbank, John 97
- military conscription, conscientious objection to 378–81, 385–90
- Mill, John Stuart 252, 417
- Mills, C. Wright 18, 22
- ministers of religion *see* freedom of religion, rise of secularism and British workplace
- Minow, Martha 45–6
- Mitchell, Mary 448
- Modood, Tariq 201, 202–3, 214
- Moon, Richard 427
- Moors, Annelies 409
- moral panic, use of term 20, 442
- Morley, Gareth 417
- Mormonism *see* Church of Jesus Christ of Latter-Day Saints
- Mormon Church, ECtHR decisions and 323–4
- Mosaic Law *see* Bentham and biblical law; Moses
- Moscow Branch of the Salvation Army v Russia* (ECtHR) 337–8
- Moses 75–6, 88, 95
- Mouvement laïque québécois v Saguenay (City)* (SCC) 208–9
- Muhammad v Enterprise Rent-A-Car* (Mich. Dist. Ct.) 400–1, 403, 404–5, 406, 407–8, 411, 417
- Muslim Council of Britain 411–12
- Muslims *see* Islam
- Myanmar
penal laws as offences against religion 187
state control over Sanghas 187
- Nagel, Thomas 42
- national security claims, as basis for restrictions on religion 342, 348–50
- Native American Church, ritual use of peyote 81–2, 110
- natural right, definition 229
- Navarro-Valls, Rafael 339
- Neo, Jaclyn 178–97
- neo-Paganism, rise of 9–10
- Netherlands
church tithe collection tax assistance 186
pillarization 191–2, 196
principled pluralism 237
sphere sovereignty doctrine (Kuyper) 142, 192
- the New Equality (Nisbet) 46–7
- New Jersey
Constitution 161
kosher food regulations 266, 267
new religious movements (NRMs) 335, 341, 342, 345–6, 348–50, 354
- New Testament Church of God v Stewart* (EWCA) 361–2
- New York (state)
Kosher Law Act (2004) 267
- New Zealand, religious garb *see* *Police v Razamjoo* (Auckland Dist. Ct.)
- Nielsen, Kai 42
- Nietzsche, Friedrich 2
- nihilism *see* equality, religion, and nihilism
- Nisbet, Robert A. 46–7
- noise nuisance, by churches 298–9
- Nolan and K v Russia* (ECtHR) 348–50
- Norway, majoritarian preference for religion 291
- Norwood v United Kingdom* (ECtHR) 328
- Nova Scotia Barristers' Society (NSBS) 431–2, 438
- Nova Scotia, Canada
court cases regarding Trinity Western University 431–2
Nova Scotia Human Rights Act 432
- Novalis 89
- Nowak, Manfred 311–12, 313
- Nudge* (Thaler and Sunstein) 14
- Oberfegell v Hodges* (USSC) 444, 463
- objectivity vs. neutrality 305–7
- Obst v Germany* (ECtHR) 323–4
- occupational requirements and organisation ethos 323–6
- O'Donovan, Joan Lockwood 141
- Öllinger (Karl) v Austria* (ECtHR) 326–7
- On Liberty* (Mill) 252
- 'On the Duty of Civil Disobedience' (Thoreau) 396
- Ontario, Canada, court cases regarding Trinity Western University 428–30
- Orthodox Inter-Episcopal Committee of France 143

- Østergaard, Kate 409
- Ottoman millet system 178, 188–9, 190
- Pagans *see* Paganism
- Paganism 9, 10, 41, 43–5, 49, 80, 85, 88, 92, 99–100
- Pakistan
 - penal laws as offences against religion 187
 - state endorsement of religion 290
- Parsi, gender-differentiated family law, religion comparisons 243–8
- Pascal, Blaise 3
- patient autonomy 350–1
- Peace Treaties of Westphalia (1648) 296
- Pemberton v Inwood (Sex Discrimination: Marital Status)* (UKEAT) 365–6
- People of the State of Michigan v Samuel Dale Bragg* (Mich. Ct. of App.) 452, 455, 463
- People v Phillips* (NY Ct. of Gen. Sess.) 452
- Percy v Board of National Mission of the Church of Scotland* (UKSC) 360–2, 363
- permissible venture agreements (*heter iska*), in Judaism 275–6
- personal law systems (PLS) *see* religious law enforcement
- Petrzycki, Leon 29–30
- Pew Research Center 436
- Pichon and Sajous v France* (ECtHR) 393–4
- pillarization, in Dutch context 191–2, 196
- Planned Parenthood v Casey* (USSC) 87
- Plato 38, 287
- Pojman, Louis P. 39–40, 42
- Police v Razamjoo* (Auckland Dist. Ct.) 399, 400–7, 410, 413, 415, 418–19
- ‘Policy Options and Regulatory Mechanisms for Managing Radicalization on the Internet’ (UNESCO) 13–14
- political morality *see* Dworkin, religion and end of religious liberty
- polygamy 317, 319, 422
- Portugal
 - Constitution 161
- positivism *see* Bentham and biblical law
- post-Christian America (Hart) 45, 47
- Pound, Roscoe 10
- President of the Methodist Conference v Preston* (UKSC) 362–3, 364
- priest–penitent privilege *see* religious confession privilege
- primary constituent power, and constitutional unamendability 175
- principled distance (Bhargava) 195
- principled pluralism, in Netherlands 237
- proportionality and liberal constitutionalism 204–9
- proselytism 14, 43, 106, 300, 320–1, 329, 333–6
- Protestant Church, ECtHR decisions and 324
- Protestant Federation of France 143
- public holidays 293
- public safety/security, endangerment of *see* headscarf ban
- Puchkov, Andrei 352
- Putin, Vladimir 351
- pyrrhic victory (W.J. Brennan) 147
- Quakers, conscientious objection 103
- Quebec, Canada, Roman Catholic identity and 216–17
- The Queen v D(R)* (Blackfriars Crown Court) 400–6, 411–12
- The Queen v Sayed* (Dist. Ct. of W. Australia) 401–8, 410, 412, 413
- Quran see* Koran
- R (Begum) v Headteacher and Governors of Denbigh High School* (UKHoL) 370
- R (On the application of Bashir) v The Independent Adjudicator and HMP Ryehill and the Secretary of State for Justice* (EWHC) 368
- R (On the application of Begum) v Headteacher and Governors of Denbigh High School* (UKHoL) 411–12
- R (On the application of E) v Governing Body of JFS* (UKSC) 209
- R v Big M Drug Mart* (SCC) 293
- R v Gruenke* (SCC) 445, 448, 459
- R v Leighton* (EWCA) 450–1, 454–5, 463
- R v McArdle* (QCA) 446–7
- R v NS* (SCC) 399–401, 404, 405, 406, 408, 410, 411, 413–14, 415, 416, 417, 418
- R v Salford Health Authority, Ex p Janaway* (UKHoL) 392
- R v Secretary of State for Education and Employment, ex p Williamson* (UKHoL) 368
- Rabbinic Judaism 149
- rationalism 287, 291
- Rationale of Judicial Evidence* (Bentham) 447–8, 449
- Rawls, John 42, 112–13, 115, 143, 214
- Raz, Joseph 105, 111, 117

- Re Employment of Church of England Curates* (EWCA) 359
- Re S* (UKHoL) 403–6, 408
- Reese, Seward 449
- Refah Partisi (the Welfare Party) v Turkey* (ECtHR) 318, 321, 329, 337
- Refah Partisi (Turkey) 318–19
- Reference re Same-sex Marriage* (SCC) 423, 424
- regulatory modes 182
- religio-legal issues, overview 2–15
- indigenous religion 6–8
 - law and religion sub-discipline 3–6, 15, 17
 - law as religious enterprise 10–11
 - list of leading scholars 5–6
 - literature review 4–6
 - neo-Paganism, rise of 9–10
 - perspectives on future of religion 11–15
- religion, secularism and limits on
- constitutional amendment 154–77
 - constitutional identity and amendment rules 176–7
 - modern design of amendment rules 154–5
 - religion and secularism in codified constitutions 155–62
 - formally unamendable religion 157–61
 - formally unamendable secularism 161–2 - two forms of unamendable religion 162–7
 - Canadian Constitution 166–7
 - Iranian Constitution 163–6 - two forms of unamendable secularism 167–71
 - Indian Constitution 170–1
 - Turkish Constitution 168–70
- unamendability 171–5
- democratic justification for 173–5
 - democratic objection to 171–3
- Religion or Belief in the Workplace* (UK Equality and Human Rights Commission) 375–6
- Religion Without God* (Dworkin) 11, 79–80
- see also Dworkin, religion and end of religious liberty
- religion-state dispensations 125–53
- complications of encounter 146–52
 - ambiguous surrenders, irony of 149–50
 - pyrrhic victories, irony of 147–9
 - transformations and debates, as dynamic of 151
 - the wall of separation redux, as dynamic of 152
- existential encounter 133–7
- four metaphors of encounter 137–46
- the church is in the state 143, 143–6
 - interlocking jigsaw 138–42
 - separate spheres 142
 - wall of separation 137–8
- liberal constitutionalism and 127–33
- democracy and public reason 130–1
 - democracy and theocracy 128–9
 - democracy and theocrats 129–30
 - feelings and religious liberty 132–3
 - rights and religious liberty 131–2
- religious ADR see religious law enforcement, in India
- religious community regulation, in multicultural polities 178–97
- modes and dimensions of state regulation 181–2
- private vs. public religion 182–92
- jurisdictional autonomy and state legal pluralism 188–91
 - non-state social pluralism 191–2
 - private religion and secular regulation 183–6
 - public religion and plural accommodation 186–8
- regulatory reach and ideological postures 192–6
- accommodative pluralism and principled distance 195–6
 - prioritization of liberal secular values 193–4
 - prioritization of public interests 194–5
 - sectarianism vs. religious plurality 180–1
- religious confession privilege 442–64
- international freedom of conscience/belief and 444–9
- legal cases since 2011
- in United Kingdom 450–1, 463
 - in United States 450, 451–5, 463
- opportunities to abrogate 455–62
- Australian Royal Commission 446, 447, 455–6, 458–64
 - Irish Ryan Commission 446, 456–7
- Religious Confession Privilege and the Common Law* (A.K. Thompson) 443
- religious disputes, justiciability and adjudication of 286–307
- belief and religion 287–9
 - historical disputes with the state 289–92
 - constitutional secularism 291–2
 - majoritarian preference 291
 - state endorsement of religion 290–1
- inter-religion disputes 299–301
- keeping the peace 299–300

- preferentialism and neutrality 300–1
 - intra-religion disputes 301–4
 - interpretation/enforcement of doctrine 302–4
 - jurisdiction 302
 - justiciability, objectivity and principled adjudication 304–7
 - religious conduct affecting the state 296–9
 - endangerment of public safety/security 297–8
 - infringement on rights of others and state intervention 298–9
 - unlawful conduct on religious grounds 296–7
 - state conduct and laws affecting religion 293–6
- religious freedom as positive right 233–4
- Religious Freedom Restoration Act (RFRA) (US) 81, 82, 269–70, 283–4
- religious garb
 - bans in France 132, 143
 - legal cases 322–3, 373, 374–6
 - see also* headscarf ban
- religious holidays 293–4
- religious law enforcement, in India 240–60
 - multi-religious personal laws 241–54
 - choice and autonomy under 250–2
 - diversity and cultural autonomy 248–50
 - gender-differentiated family law, religion comparisons 243–8, 250
 - uniform family laws and 252–4, 258–9
 - state-recognized religious alternative dispute resolution 254–60
 - alternatives to 259–60
 - justice for women and 255–8
 - religious arbitration and mediation 254–5
 - support for religious expression and 258–9
 - unofficial dispute resolution forums 258, 259–60
- religious law, study of 20
- religious liberty as human right, debates over 103–23
 - delivering the hypergoods 105, 116–18
 - mutual transparency and opacity 119–23
 - politics of strong evaluation 119
 - religious liberty, definition 105–7
 - unfairness and distraction objections 103–4, 107–16
 - conscience as substitute for religion 110–11
 - equality and unfairness 109
 - integrity and core beliefs approach 111–16
 - see also* Dworkin, religion and end of religious liberty
- religious question doctrine *see* judges and religious question doctrine in US courts
- religious persecution 107, 119, 351, 353, 455, 464
- religious worship, court definitions of 288–9
- religious pluralism
 - Dworkin on 98–101
 - ECHR and ECtHR decisions 230–1, 314, 337–9
 - ICCPR and 315
- Representative Council of French Jewish Organizations 143
- restrained establishment *see* United Kingdom (UK)
- Richman, Barak D. 263, 273
- rights constitutionalism *see* liberal constitutionalism and the secular
- Risdale, George 447
- Rivers, Julian 5–6, 53, 100, 186, 205
- Roberts, John 211
- Robinson, Geoffrey 462
- Roe v Wade* (USSC) 392–3
- Rogers v Booth* (EWCA) 358–9
- Rohingya people, Myanmar 106–7
- Roman Catholic Church
 - court decisions on school funding in
 - Canada 167–8
 - ECtHR decisions and 147–9, 209, 231–2, 233, 324–5
 - as exempt from anti-discrimination laws in US 103
 - Gallicanism and 144–6
 - marriage equality and 436–7
 - private rules and tribunals within 184
 - as state religion in select countries 157
 - within Latin American constitutions 158–9
 - see also* religious confession privilege
- Romanian Orthodox Church, ECtHR
 - decisions and 325–6
- Rommelfanger v Germany* (ECtHR) 325
- Rousseau, Jean Jacques 144
- Royal Gallicanism 145
- RR v Poland* (ECtHR) 394–5
- rule of law 199, 204–6, 223, 234, 298, 310, 319, 321–2, 337, 344
- Russia
 - anti-extremism and counter-terrorism laws 335, 351–4
 - Constitution 346–7

- ECtHR decisions on Jehovah's Witnesses and 316, 317, 319, 342, 350–1
- ECtHR on claims that Unification Church activities as threat to national security 348–50
- Expert Council for Conducting State Expert Examinations in Religious Studies 349
- Freedom of Conscience and Religious Associations (1997) 348, 352, 354
- judicial critique of ECtHR decisions 347
- Ministry of Justice liquidation of Jehovah's Witnesses organization 352–3
- ratifies ECHR 346
- religion and security 344–54
- Yarovaya Amendment 351–2
- see also* human rights, changing narrative of
- Russian Orthodox Church (ROC) 346, 347, 348
- Rutgers Journal of Law and Religion* 138
- Sacks, Jonathan 141
- Sager, Lawrence G. 5, 84, 109–11, 116, 207, 269, 280–1
- Salvation Army 348, 351, 358–9
- same-sex marriage *see* marriage equality
- Sandberg, Russell 3–4, 6, 16–35, 188, 357, 370
- Santokh Singh v Guru Nanak Gurdwara* (UKEAT) 360
- São Tomé and Príncipe
- Constitution 161
- Sarla Mudgal v Union of India* (SCC) 249–50
- SAS v France* (ECtHR) 292, 341–2, 413
- Saudi Arabia, state endorsement of religion 290
- Scharffs, Brett 181
- Schauer, Frederick 120
- Schirmacher, Thomas 224
- Schleiermacher, Friedrich 89
- Schofield, Philip 76
- Schüth v Germany* (ECtHR) 324
- Scientology, Church of xiii, 288, 340, 346, 348
- A Secular Age* (Taylor) 88, 200–1
- secularism *see* liberal constitutionalism and the secular; religion, secularism and limits on constitutional amendment
- secularization thesis 202, 224–5
- secularization trends, and sociological approach 24–5
- securitization of rights *see* human rights, changing narrative of
- securitization theory 343–4
- sectarianism 107, 122, 144, 180–1, 293, 350
- Selznick, Philip 220
- Serbian Eastern Orthodox Diocese v Milivojevic* (USSC) 278–9
- sexual orientation *see* LGBT rights
- Shachar, Ayelet 33
- Shah of Iran 163–5
- Shari'a law
- court incorporation 189
- Islam as state religion in select countries 159–61
- during Ottoman Empire 169
- proposed arbitration tribunals in Ontario, Canada 213, 217, 240
- in Turkey 318–19
- Sharpe v Worcester Diocesan Board of Finance Ltd* (UKEAT) 363–5
- Shelley, Percy Bysshe 89
- Sherbert v Verner* (USSC) 116
- Shinto 290
- Siebenhaar v Germany* (ECtHR) 324
- Sieger v Sieger* (NY App. Div.) 282–3
- Sikhs 138, 260, 267, 336, 378, 386, 391, 401
- Sindicatul 'Păstorul cel Bun' v Romania* (ECtHR) 325–6
- Singapore
- penal laws as offenses against religion 187
- racial-religious harmony concept 194
- state jurisdictional pluralism 189–90
- Singer, Joseph W. 45–6
- Smith, Al 110
- Smith, James K. 91, 92
- Smith, Steven D. 5, 10, 37–52, 79, 84–6, 88–9, 99–100, 118
- Society of Jesus 348, 481
- sociological, use of term 22–4
- sociological approach to law and religion 16–35
- comparison of Cotterrel and Doe 26–7
- Cotterrell on 18–24, 26–7, 28, 31–2, 34, 35
- cross-disciplinary approach and 19–21
- defining of religion and 21–2
- Doe on 25–8, 30, 31–3, 34
- nature of interdisciplinary work 30–3
- role of sociology of law 28–30
- secularization trends and 24–5
- sociological, use of term 22–4
- the sociological imagination (Mills) 18, 22
- sociology of law (Selznick) 220
- Solanki, Gopika 256, 257
- South Africa, Republic of

- Constitution 300, 301
- South African Constitutional Court
 - on balance of rights 295–6
 - on neutrality in public schools 300–1
 - on public holidays 293
- sovereignty, and liberal constitutionalism 214–19
- Soviet Union era, and religion 345, 346, 353–4
- Spain
 - church tithe collection tax assistance 186
 - Constitution 158
 - sphere autonomy 192–3
 - sphere sovereignty doctrine (Kuyper) 142, 192
 - state regulation of religious communities *see* religious community regulation, in multicultural polities
 - state religions, prevalence of 157
- Strong, Stacie 2, 6, 11
- substantial burden standard, in RFRA 270–2, 283–4
- Sullivan, Winnifred Fallers 211–12
- Sunstein, Cass 14
- Supreme Court of Canada (SCC)
 - on conflict of rights 423, 426–7, 429, 430–1, 432, 435, 436
 - on definition of marriage 423
 - on definition of religion 288–9
 - on discretionary religious confession privilege 445
 - on exemption for Jewish use of temporary huts (*succahs*) on private property 296
 - on family law agreements 257
 - on funding Catholic schools 167–8
 - on Indigenous religion 7–8, 217–19
 - on photo requirement for driver licenses and religious freedom 207
 - on public prayer 208–9
 - on religious and equality rights 420, 432–4, 438–41
 - on religious confession privilege 448, 449
 - on religious divorce/family law arrangements 213–14
 - on religious education 212–13
 - on religious freedom 7–8
 - on spousal separation agreement 256–7
 - on state neutrality towards religion 421
 - strikes down Lord's Day Act (1906) 293
- Supreme Court of India
 - on constitutionality of Sunni Islamic divorce 303–4
- Supreme Court of Russia
 - denial of Jehovah's Witnesses appeal 352–3
- Switzerland, headscarf ban 319–21
- Tajikistan
 - Constitution 161, 162
- Tanzania
 - Constitution 299
- Tanzanian Court of Appeal
 - on religious tolerance 299–300
- Taylor, Charles
 - on age of authenticity 88
 - on hypergoods 105, 116–18
 - on role of religious beliefs 115
 - on secularism 195–6, 200–1
 - on strong evaluation 116–17
 - on strong sense of religion 99–100
- Taylor, Paul 309–30, 378
- techno humanism 12
- technoregulatory mechanisms (TRMs) 13–14
- ten Napel, 221–39
- terrorism, impact on religious freedom 354–5
 - see also* human rights, changing narrative of
- Thailand
 - Sangha Act (1962) 187–8
 - state control over Sanghas 187
- Thaler, Richard 14
- theocratic constitutionalism 156–7
- Thlimmenos v Greece* (ECtHR) 337
- Thomas v Review Board* (USSC) 283–4
- Thompson, A. Keith 5, 442–643
- Thompson, Sharon 33
- Thompson Klein, Julie 30, 31, 32
- Thoreau, Henry David 396
- Tillich, Paul 90
- Tocqueville, Alexis de 37
- Togo
 - Constitution 161
- Torah*
 - Bentham on 56, 75–8
 - Christian ethical continuity with 61–3
 - Jesus as fulfillment of 63–4
 - normativity in Bible and 57
 - see also* Deuteronomy
- Town of Greece v Galloway* (USSC) 209
- Treaty on the Functioning of the European Union (TFEU) 234
- Tribe, Laurence H. 269, 280
- Trigg, Roger 339
- Trinity Western University, School of Law (TWU) 420–41

- Federation of Law Societies of Canada (FLSC) and 425, 430, 431, 432–3
 harm principle applicability 437–9
 impact on religious institutions 439–40
 Law Society of British Columbia (LSBC) and 425, 430–1
 Law Society of Upper Canada (LSUC) and 427–30, 439
 legal case against British Columbia College of Teachers 426–7
 LGB equality and 420, 422–4
 Nova Scotia Barristers' Society (NSBS) and 431–2, 438
 polarizing factors of 434–5
 as private Christian university 420, 424–5
 religion, race, sex and homosexuality 435–7
 religious rights and 421–2
 SCC case rulings 212–13, 420, 421, 426–7, 432–4, 438–41
Trinity Western University v British Columbia College of Teachers (SCC) 212–13, 423, 425, 426–7, 429, 430–1, 432, 435, 436
 Trudeau, Justin 437
 Tulkens, Françoise 314, 318, 321
 Tully, James 220
 Tunisia
 Constitution 160–1
 Turkey
 Constitution 161, 162, 168–70, 177
 headscarf ban 297, 317–19
 juridical autonomy and personal status within religious communities 189
 state officials and loyalty to secular principles 321–2
 Turkish Constitutional Court, defence of secularism 169–70
 Tuttle, Robert W. 268, 269
Ulke v Turkey (ECtHR) 388–9
 unamendability of constitutions *see* religion, secularism and limits on constitutional amendment
 underage marriage 317
 Unification Church
 banned by Kyrgyzstan 353
 ECtHR decisions and 348–50
 The Union of Buddhists of France 143
 United Kingdom Supreme Court (UKSC)
 on Church of Scientology 288
 on claim of unfair dismissal by minister 362–3, 364
 on healthcare conscientious objection 392
 on Jewishness as religious/ethnic feature 209
 on LGBT rights 374
 on ministers of religion and employment 359, 362–3
 on religious doctrine and non-justiciable 368
 on sex discrimination claim by former minister 360–2, 363
 on vicarious liability 366
 United Kingdom (UK)
 Abortion Act (1967), Great Britain 391–2
 Arbitration and Mediation Services (Equality), HL Bill 240–1
 ban on corporal punishment in schools 81
 church by law established norm 125, 133, 138–42, 151
 Church of Scotland Act (1921) 360–1
 constitutions of former British colonies 162
 English Independent Inquiry into Child Sexual Abuse 442
 English restrained establishment 236–7
 Equality Act (2010) 237
 Equality and Human Rights Commission 375–6, 377
 Human Rights Act (1998) 4–5
 Jew Bill (1753) 69
 lack of statutes protecting religious confession privilege 443, 444–5
 law and religion sub-discipline 17
Magna Carta 365
 majoritarian preference for religion 291
 penal laws and religion in former British colonies 187
 religious doctrine in family law in colonial India 242
 Sex Discrimination Act (1975) 360–1
 statutory protections for conscientious objection 382–3
see also freedom of religion, rise of secularism and British workplace; *individual courts and cases*
 United Nations Charter 312
 United Nations Human Rights Committee (HRC) 309–10
 on blasphemy laws 328–9
 on content-based restrictions 313
 decision on religious garb 322–3
 on freedom of assembly 327
 freedom of religion 340
 on freedom of thought, conscience and religion 314, 386
 freedom to change religion/belief 334

- on necessity of interference 317
- United States Constitution
 - amendment rule (Article XIII) 154
 - Bill of Rights 210
 - First Amendment 81–2, 83, 104, 112, 212, 262–3, 265, 271, 282, 383, 392–3, 453, 454, 455
 - Establishment Clause 125, 131, 132–3, 138–9, 143, 211–12, 266, 267, 268–9, 273, 274, 276–7, 278–9
 - preamble 155–6
 - wall of separation principle 137–8, 152
- United States Supreme Court (USSC) 52
 - on ceremonial deism in pledge of allegiance 209
 - on church property cases 278–9
 - on contraception mandate 81, 270–2, 283
 - on free exercise clause and Native American sacred lands 111
 - on free exercise of religion 116
 - on *heter iska* agreements 276
 - marriage equality and 46
 - on prayer 209
 - on racist policies of Bob Jones University 435
 - on religious exemption and neutrally framed laws 81–2
 - on religious exemption from anti-discrimination protections 211–12
 - on religious liberty 444, 463
 - on religious question doctrine 262–3, 268, 277–9, 283–4
- United States (US)
 - church tax exemption and political campaigns 185–6
 - as exception to secularization thesis 224
 - founders on equality 40–1, 48
 - founders on religion-state separation 135
 - Lemon*-test 291
 - Pledge of Allegiance 44–5
 - roots of religious liberty 119
 - self-identification as religious 454
 - state religious confession statutes 445, 452–4
 - state/city consumer protection laws for kosher food 266–7
 - traditional religionists vs. LGBT rights 43
 - see also* judges and religious question doctrine in US courts; *individual courts and cases*; *individual federal agencies and legislation*
- United States v Mary Elizabeth Blue Hull Memorial Presbyterian Church* (USSC) 278
- Universal Church, ECtHR decisions and 324
- Universal Declaration of Human Rights (UNDHR)
 - democratic society concept 312
 - religious liberty (Article 18) 103, 106
 - universality 331–2
- Universities Canada 441
- US Civil Rights Commission, *Peaceful Coexistence: Reconciling Nondiscrimination Principles with Civil Liberties* 463
- US Commission on International Religious Freedom, report on Syria (2013) 107
- US State Department
 - International Religious Freedom Report (2014) 106, 108, 112
 - monitors religious liberty worldwide 103
- usury, Hebraic law prohibition against 275–6
- Vallier, Kevin 131
- Vaprežsan, John 452
- The Vatican 129, 157, 212, 290
- veils *see burqas/niqabs* in courtrooms
- Venice Commission (European Commission for Democracy through Law) 342–3
- Venter, Andre 5, 286–307
- Vienna World Conference on Human Rights (1993) 331
- Vietnam, Ordinance on Belief and Religion (2004) 194–5
- Virginia Declaration of Rights 41
- Voegelin, Eric 10
- Vojnity v Hungary* (ECtHR) 317
- Volstead Act (1919) (US) 115
- Waldron, Jeremy 43, 235
- Waldron, Mary Anne 435
- Walpole, Horace 69
- Ward, Graham 88–91, 92
- Watson v Jones* (USSC) 277–8
- Weber, Max 20, 29
- Wells, Bruce 56
- Westen, Peter 47–8, 49–50, 52
- Westerman v The Netherlands* (CCPR) 386
- Wiccans 9–10
- Wigmore, John Henry 451, 454
- Williams, Rowan 98, 240–1
- witchcraft 2, 9, 69

Witte, John, Jr. xii–xviii, 5, 17, 179, 228,
291, 335–6, 348

Witten, Mark 287

Wright, C. A. 449

Wright, N. T. 65

*Yeo-Bum Yoon and Myung-Jin Choi v
Republic of Korea* (CCPR) 386–7

Young-kwan Kim v Republic of Korea (HRC)
388

Zempi, Irene 409

Zorkin, Valerii 347

Zubik v Burwell (USSC) 270–2, 283

Zucca, Lorenzo 6, 103

Zummo v Zummo (Pa. Super. Ct.) 281

