Religious Organizations in the United States

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A Study of Identity, Liberty, and the Law

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We dedicate this book to all who come together in religion and strive to live their beliefs in a free society governed by law.

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Prologue

James A. Serritella

This book speaks to lawyers and the world of law. It is meant to speak no less to religious leaders and the world of religion and to anyone who is interested in religion and how it functions in our society. It also reflects the authors' desire to plumb a firm and improved foundation of a new jurisprudence for organized religion.

Religion is now at center stage in the United States and the world. Religious leaders and religious organizations have become highly visible and potent advocates in the public discussion of front-page issues as diverse as abortion, educational choice, termination of treatment of the gravely ill, assisted suicide, stem cell research, cloning, welfare reform, health care accessibility and finance, race relations, affirmative action, defense spending, same sex marriage, and so many others. The administration of President George W. Bush has helped fuel this discussion by promoting programs such as "faith-based initiatives" and "charitable choice." Religious organizations themselves have attracted national interest and attention, and their leaders have become lightning rods for widespread debate on issues such as sexual misconduct with minors by some clergy. Religion has also towered on the world scene. It has been a rallying cry for intense conflicts in the Middle East, Africa, Northern Ireland, and elsewhere. Signally, religion has been a dominant focus in the events of September 11, 2001, and their aftermath. Even if one had no interest or inclination at all toward religion, a person living in this country or on this planet would find it almost impossible to avoid being touched by it in some way.

Religion is also the subject of public policy and the law worldwide. Some believe that government and religion should be entirely separate from one another, while others are convinced that there should be an identity between the two. The idea that church and state should be separate is imbedded in the American culture and is both the touchstone and the idiom for any discussion about religion and government in the United States. This does not mean that everyone's beliefs about separation are the same, or even that there is a broad-based understanding of the issues. Almost everyone somehow incorporates the word "separation" in what they say, but despite its omnipresence in the discussion, the meaning and consequences of the term remain, at best, unclear.

The law governing religious organizations in this country is also deficient. Much of it is derived from the law governing commercial organizations, or is imported from the secular not-for-profit world, and does not address religion or religious organizations on their own merits. As a result our law, jurisprudence, and public policy relating to religion misses the mark and is often distorted. Its derivative character is not just a bad fit—it channels religious activity away from religion and toward the secular, commercial world. This result may be unintended but it is nonetheless real. Because this chan-

neling toward the secular may be subtle, gradual, masked by goodwill, and obscured by the meanderings of our culture, its impact often escapes attention and is ignored.

For example, a religious organization may have people who work on its behalf and are compensated for their services. It would seem obvious that one should seek out the terminology and laws that relate to employment in the commercial or secular not-for-profit worlds and apply them to these workers. In some religious traditions the employment concept aptly describes the relation between the church and someone working on its behalf, even a member of its clergy. Nonetheless, for other religious traditions to define or classify a member of the clergy or someone working for the church as an employee entirely misses the point of the person's relation to the church. There are many differences on this issue among religious traditions. In the Roman Catholic world, for example, the term "employee" has very little relevance to the relation between a priest and his diocese. In other traditions many, if not all, of those working on behalf of the church are believed to be ministers or at least to partake of the ministerial status in some sense of that word. Part of the search for a new jurisprudence for religion necessarily requires a search for new words, a new mode of discourse that has meaning in the world of religion as well as the world of law. The corollary for this search for a new language is a search for new, more relevant legal principles.

Thus, a more soundly based jurisprudence would focus on a particular religious organization's understanding of those working on its behalf and their relationship to the church. Instead of simply importing legal terms and principles from the secular world, a better jurisprudence would try to identify a terminology and fashion legal principles that are faithful to this religious understanding. Thus, a Roman Catholic priest is ordained and incardinated into a diocese, not hired. The term "incardination" is very different from the term "hired." It indicates that the priest is made part of the diocese, and that the diocese is obligated to provide for his care and welfare. Neither the priest nor the diocese can escape the obligations signified by "incardination" very easily. The obligations are rooted in the church's mission and are intended to remain in effect for the life of the priest.

Civil law treatment of a priest as "hired" rather than "incardinated" would secularize and distort the relationship and could yield results that reduce both the priest's and the diocese's religious freedom — not because of a faulty interpretation of constitutional principles, but because of a poor understanding of the relationship at issue. Analogizing incardination to employment gives about as accurate an understanding of incardination as analogizing a dog to a table because they both have four legs. For example, application of legal principles relating to employment, such as the civil rights laws, to a church's selection and "hiring" of clergy would restrict its ability to select clergy strictly according to religious criteria. Similarly, applying the laws of contract would intrude on the denomination's own specifications for the relationship by creating the impression that bishops and priests were free to reinvent it. Treating the priest as a common law employee would substitute employment criteria that have evolved in the commercial world for those more appropriate to a religious relationship. Nonetheless, a review of the relevant legal databases reveals hardly a mention of the word "incardination."

Sometimes the law acknowledges the awkward fit of commercial or secular terminology and concepts to religious realities. For example, the courts have consistently held that the civil rights laws do not apply to the selection of clergy, and they frequently enunciate a constitutional rationale for this position. On the other hand, the law sometimes blunders ahead with ill-fitting terminology and principles. Although a Roman Catholic priest is neither an independent contractor nor an employee, the Internal Rev-

enue Service requirement that an independent contractor's compensation be reported on Form 1099 and an employee's compensation be reported on Form W-2 is often enforced as if the priest were an employee. This obscures rather than illuminates the relationship between a priest and his diocese.

In the pages that follow, our authors highlight instances in which legislatures, courts, lawyers, and religious organizations themselves fail to translate a religious organization's self-understanding into legal concepts. No single instance of the law requiring organized religion to endure ill-fitting terminology is likely to destroy or seriously impair religious freedom, but the cumulative effect of dozens if not hundreds of such instances can and does constrict, skew, and otherwise contort a religious organization's ability to pursue its goals in accordance with its self-understanding.

The authors of these essays do not advocate that religious organizations be totally unfettered in living out their self-understanding. Our coming together as a nation and good citizenship provide limits on the conduct of all who live here. Certain particular limiting principles applicable to religious organizations are identified, explained, and tested throughout this volume. For example, respect for a religious organization's self-understanding is limited by what we define as religious. It is also well established that the law should not respect a religious organization's fraudulent portrayal of its self-understanding. At the same time, courts are in the early stages of sorting out new principles to limit government's ability to enforce neutral, generally applicable laws as they may relate to religious organizations. The burden of searching for appropriate limits falls not only on public bodies and scholars but on religious organizations themselves. The courts and other public bodies have the authority to make important decisions, but they are constitutionally restricted in their ability to sift through the religious elements of matters before them. Scholars can pursue a broad and thorough analysis, but their role is limited in that they are not directly involved in legal proceedings. As a result, much of the burden of explaining their self-understanding and even helping to shape limits remains with religious organizations.

If the law sometimes blunders in its dealings with religious organizations, the organizations sometimes are awkward in their dealings with the law. The problem begins with a religious organization's translation of its self-understanding into a civil law identity. Sometimes the organization has a clear and complete image of itself that it can thoughtfully articulate to a civil lawyer who can sensitively and faithfully translate it into civil law language. All too often, though, there are both major and minor failures along the way. The result is that legislatures, courts, government agencies, advocates, and even scholars frequently begin their treatment of the religious organization with a very dim picture of that understanding.

Sometimes the awkwardness results from misconceptions about our legal system. There are more than a few in religious organizations who believe the law to be a matrix that yields ready answers to all questions, rather than an instrument that a skilled and knowledgeable practitioner uses to achieve justice. Others seem to believe that courts are oracles that dispense justice spontaneously without much input from the parties before them. In fact, our courts are very dependent on the parties to present the facts and advocate the legal principles they believe dispositive. Courts make their determination of the operative facts in a case on the basis of the information the parties present to them. The only minor exception is that courts are permitted to take "judicial notice" of certain widely accepted factual generalities, such as "The summers in Chicago can be hot" or "Cars have by and large replaced horses for personal transportation." While courts cannot engage in independent factual research to supplement the parties' factual

presentations, they can and do develop their own legal research to check and supplement the parties' legal presentations. Nonetheless, they weigh the parties' presentations of legal principles heavily in formulating their own interpretation of these principles and applying that interpretation to their own determination of the facts. In short, the courts are very much dependent on litigants to describe the facts sensitively and advocate the relevant law clearly. Without such input, courts are not likely to deal with the religious organization's self-understanding in a way that safeguards or enhances religious freedom.

Moreover, many religious organizations have a certain discomfort with dealing with the legal profession and the legal system. They employ a terminology of their own that reflects the fact that they function in this world but have a strong second focus that is, at least in some sense of the word, otherworldly. Meanwhile, lawyers routinely use the commercial terminology they understand, and sometimes provide their input based on a fairly crass version of the here and now. Even lawyers familiar with the secular not-for-profit world do not necessarily find words or concepts to describe religious organizations accurately. Consequently, there may not be a meeting of the words or minds between lawyer and client.

Sometimes the religious organization does not have the resources to secure superior or even adequate advocacy. All too often it is so occupied with its other work that it does not give sufficient attention to selecting and collaborating with legal counsel who will go beyond a commercial or secular analysis and formulate an accurate picture of the religious organization. Despite these difficulties, achieving and safeguarding religious freedom remains in large part the task of religious organizations themselves.

Changing immigration patterns have brought millions of people to the United States who are neither Christians nor Jews but belong to religious traditions and organizations that are relatively new to the American legal environment. These new immigrants provide us with an opportunity to renew and reinvigorate our jurisprudence of religious organizations. One would hope they will not have to endure the ill-fitting commercial language and principles that our legal system has imperfectly adapted to Christian and Jewish organizations. The new realities cry out for a new terminology and new discourse that could open the way to a new jurisprudence. One hopes that all parties to the legal system will be up to the task.

These essays were originally inspired by a study of the civil law structures that religious organizations use to conduct their work. Situations were observed in which a religious organization's choice of a legal structure made for clear but frequently unintended differences in how the law treated that organization. For example, a church that incorporates one of its activities separately from the church's own corporation is likely to experience some unintended consequences. Participants in the legal system such as public agencies, courts, private litigants, and attorneys begin to perceive the newly created separate corporation as something apart from the church. This perception may be exacerbated by the organizers' failure to include in the new corporation's governing documents language and other features that specify its religious character or connection to the church. As a result, participants in the legal system frequently begin treating the two corporations in different ways. The separate corporation, for example, may lose some of the church's exemptions, such as the exemptions from filing Internal Revenue Form 990 and from participating in the unemployment compensation program. Private litigants may insist that the new corporation be treated as separate from the church, or as not even being religious. Courts in turn may defer to this position. In addition, the two corporations may begin to perceive themselves and each other as separate organiza-

tions. This perception often grows over time—even a fairly short time—and especially when there are changes in personnel. The separate corporation's identity as part of the church may fade and eventually it may even go its own way. What began as a separation for organizational convenience may end up as separation for its own sake. These consequences do not always occur, but they happen frequently enough to be an important concern.

Commercial organizations may also decide to separately incorporate a portion of their activities. They have to face some of the same organizational psychology as churches do, but they have access to better legal tools to deal with the situation. For example, a commercial corporation can retain control of a separate commercial entity through stock ownership—a device not available to religious organizations. It is not surprising that commercial organizations have better developed legal tools. Commercial law is based on a clear understanding of commercial concepts, and the law and the concepts have evolved together over time. Moreover, commercial organizations almost anywhere in the United States can use the law of Delaware, which is especially well developed and permits them to fashion sophisticated legal structures for their activities. There is no analogue to the law of Delaware for religious organizations. On the other hand, the almost haphazard channeling of a religious organization's legal structure into certain benign and fairly common commercial legal forms may well twist the organization's self-understanding into a new shape. This distortion impinges on constitutional principles of religious freedom.

The original insight for these essays to focus on legal structures was developed into a working hypothesis which was the subject of ongoing discussions between the authors and the editorial team as well as the DePaul University College of Law Center for Church/State Studies Legal Scholars Advisory Board. There were also discussions with experts about religion and the law abroad, because many of the authors had led or participated in consultations about religious freedom in Europe and the former Iron Curtain countries.

In addition, the authors were actively involved in the controversies, litigation, and legislative efforts of the time that stemmed from several important United States Supreme Court cases relating to religious issues. The Court's 1990 decision in *Employment Division v. Smith*[1] was perhaps the most important of these cases. The *Smith* case is understood to severely limit constitutional principles of religious freedom that had been used to evaluate and sometimes invalidate laws believed to impinge on religion. The controversy over this ruling moved Congress to enact the Religious Freedom Restoration Act to reinstate the principles legislatively. This act was challenged in *City of Boerne v. Flores*,[2] which held portions of it unconstitutional. There has been litigation that has dealt with the parameters of the *City of Boerne* case and helped to clarify its meaning. There has also been legislation at the state level to replace the portions of the Religious Freedom Restoration Act which were held unconstitutional.

Some of the authors of this book also participated in several other Supreme Court cases that generated extensive interest and discussion. The 1971 case of *Lemon v. Kurtzman*[3] laid out a test for evaluating programs of financial aid to parochial schools. In the decades that followed, experts and ultimately the Court itself became increasingly critical of this test. The result has been a reorientation of the principles used to evaluate

1. 494 U.S. 872 (1990).
2. 521 U.S. 544 (1997).
3. 413 U.S. 602 (1971).

such aid programs, as reflected in the Court's recent decision in *Zelman v. Simmons-Harris*.[4] The 1979 case of *Jones v. Wolfe*[5] enunciated the so-called "neutral principles of law" doctrine as a possible alternative to the well-established "deference to church polity" doctrine for adjudicating church property disputes. The case gave rise to widespread disagreements about how broadly the neutral principles of law doctrine might be extended. Those disagreements are reflected in these pages.

The authors were on all sides of these controversies, and the fullness of their efforts produced an abundance of ideas. For example, during one of the formal conferences about these essays, Carl H. Esbeck surfaced the expression "charitable choice." He has since developed the concept to the point where it has gained enough currency to influence President Bush to advance the "faith-based initiatives" program. This program would open the government's delivery of social services to a whole new group of providers, many of which are very up-front about the religious character and religious mission of their organizations. Some of our authors agree with Esbeck's analysis, while others see questions and even constitutional obstacles to the approach he is advancing. In short, the authors' efforts as scholars and advocates helped reshape and enrich both the original concept for this study and the essays themselves. Their differing insights and viewpoints probe what William P. Marshall refers to as the "conflicting policies and impulses" of law and religion. As a result, the study addresses not only the law's treatment of a religious organization's legal structure but also its treatment of the organization's self-understanding.

Marshall raises questions about whether a religious organization's self-understanding should be a basis for the improvement of our jurisprudence. In the process, he emphasizes what he believes to be the inscrutability of legal issues relating to religion. He also cautions about the need for limitations on deferring to the self-understanding of religious organizations. Finally, referring to some of the religious excesses of our times, he asserts what he believes to be a need for protection from religion. Others, such as Edward McGlynn Gaffney, Jr., view Marshall's position as at least a partial abdication of legal scholars' and advocates' traditional role of trying to sort out the difficult issues and fashion limiting principles that are consistent with our constitution.

While the authors touch on many of the legal topics that are important to religious organizations, this is not a handbook or casebook. The essays explore issues such as the legal definition of religion, the structuring of religious organizations, and the relationship between an organization and those who work on its behalf. They do not, however, catalogue specific measures for addressing those concerns. Instead, they provide the foundation needed to understand the diverse ways in which the law influences how religious organizations function and interact with the greater society. We seek to enhance the discussion of these fundamental issues and to draw not only lawyers but historians, political scientists, ethicists, theologians, and other concerned parties into that discussion. It is hoped that this will help deepen our understanding of these issues and stimulate development of relevant pragmatic measures.

The chapter on sexual misconduct with minors by some clergy is a good example of how a discussion of fundamental issues inherent in a difficult problem can help point the way to practical initiatives for addressing it. Stephen J. Pope and Patricia B. Carlson provide the insights of a distinguished ethicist and a practicing lawyer. They focus on issues which are emerging from court rulings as well as positions advocated by litigants and commentators that have an impact on a religious organization's self-understanding.

4. 122 S. Ct. 2460 (2002).
5. 443 U.S. 595 (1979).

Importantly, they point out risks to religious freedom as well as suggest limits on that freedom. Their thoughtful work is an important contribution to the discussion of a topic that will occupy lawyers, courts, scholars, and religious organizations for many years to come.

Viewed as a whole, these essays move the course of the law relating to religious organizations in a new direction. The goal should not be a leveling of religious organizations' self-understanding so that all religious traditions can be described by the same words and forced to fit into the same commercial concepts. Instead, it should be to build a legal language and principles that respect the differences between various religious settings and understandings. For instance, a Roman Catholic priest may be incardinated by a diocese but employed as a teacher in a university, while a congregational church might call and employ a pastor.

A jurisprudence rooted in a religious organization's self-understanding is oriented inductively rather than deductively. Its starting point is the reality of a religious tradition as understood by itself—not a pre-existing secular legal language and principles, and especially not a pre-existing commercial law language and principles. This approach might lead to the use of a pre-existing legal word, like "employment," or of a word that is relatively new to the civil law, like "incardination." These terms, in turn, would help us to fashion more apt legal principles. The outcome would be a jurisprudence that deals with religious organizations as they are, rather than as they may be viewed through commercial or secular lenses.

These seeds of a new jurisprudence do not require sweeping legislative action or a mass expenditure of funds. They require only that the participants in the legal process work at the new jurisprudence day in and day out in their dealings with each other. The misunderstandings in the law today are a necessary starting point, and this book helps develop a sensitivity for them. Religious organizations themselves are not just observers but participants in the legal process, and as such they have a central role to play in the effort to generate a new jurisprudence. They have to articulate their self-understanding in a way that other participants can understand. The other participants—such as legislatures, courts, and government officials—need to listen more sensitively. The dealings include not only litigation and transactions, but also the interaction between the government and religious organizations. The work includes a persistent striving for new and better language to describe the religious organizations, as well as a reshaping of legal principles. Through these efforts a new jurisprudence will gradually displace the old, bringing with it an enhanced religious freedom.

This volume focuses primarily on organized religion, a term used broadly here to mean a religious tradition or, more popularly, a religious denomination or sect. The Roman Catholic Church, the Evangelical Lutheran Church in America, and Reformed Judaism would be examples of particular religious traditions. The term "organized religion" is also used more narrowly to mean a particular organization or institution within a religious tradition. This would include either a subdivision of a religious tradition, such as a diocese or synod, or an institution or activity within a tradition, such as a college, hospital, or social services program.

The nature of a religious tradition may be reflected in a variety of sources. These may include a scripture or other inspired writing, such as the Bible or the Qur'an, as well as oral and written traditions and practices, the teachings of the tradition's scholars, and directives of its leaders. There also may be other sources such as adherents' beliefs and folkways or a tradition's culture, art, and music. These sources may be inter-

preted by outside experts or by representatives of the tradition. The tradition's understanding of itself may be based on some or all of these sources and perhaps others. It includes the obvious, the subtle, and the otherworldly, and it is usually expressed in words. Descriptions of a religious tradition by someone outside it can seldom match the tradition's own highly nuanced view of itself. This self-understanding is a natural starting point for a thorough analysis of the civil law's treatment of religion. Stated in another way, any civil law treatment of religion that does not respect this self-understanding is suspect, and most likely flies in the face of our constitutional guarantees of religious freedom.

Professor Marshall would remind us that civil law's completely unfettered adoption of a religious organization's self-understanding may run afoul of the Establishment Clause. This is a good caution, but not a good reason to abandon self-understanding as the starting point for a new jurisprudence. It is a reason, however, to have sound limits for the legal treatment of that self-understanding just as we need sound limits for the legal treatment of any other phenomenon. Developing these appropriate limits, and reorienting our law away from secular models and toward religious organizations' self-understanding, remains a challenge for scholars, lawyers, courts, and legislatures. As Gaffney counsels, this effort should not sidestep difficult questions but should engage them with careful and thoughtful scholarship.

Religion stands in two worlds: the visible world and the world of belief. It functions in the world we can see and touch, yet it usually has its origin and reason for being in a world we cannot see and touch. That world of belief can be brushed by reason, but mainly lies beyond it. It may appear irrational, but it has a rationality of its own that sometimes baffles ordinary human reason without violating it. Religious discourse, organizations, and modes of functioning may have many similarities to the kind of human activity that can be seen, touched or measured, while at the same time they extend beyond perception and reason. The confluence of these two worlds invests religion with a certain internal tension and mystery.

While there must be sound limits on the law's treatment of religious organizations' self-understanding, there are also constraints that make it somewhat difficult to establish those limits. For example, the United States Constitution restricts the ability of the courts to delve into that self-understanding and reach conclusions that touch the religious dimension of a religious organization. The courts may not usurp a religious organization's ability to make its own decisions about such matters. Since courts are limited in their ability to probe the religious aspects of such organizations, the organizations themselves must take the initiative and present their self-understanding clearly and persuasively if the courts are to respect it. The courts, in turn, may legitimately check these presentations to make sure they are not tainted by fraud or collusion.

The courts may also check this self-understanding by reference to what the law can identify as being religious or not religious. This identification implies the need for a definition of religion that will work in a legal context. There are constitutional restrictions here as well, because an overly narrow definition would exclude some organizations that are truly religious, while an overly broad definition will fail to separate what is religious from what is not. In these pages W. Cole Durham, Jr. and Elizabeth A. Sewell analyze the complexities of formulating a definition of religion and examine the limits such a definition imposes on a religious organization's self-understanding. They conclude that it is fairly easy to recognize most religious organizations as such because of "family resemblances." On the other hand, as one might expect, the task of separating what is religious

from what is not becomes more daunting at the margins. That is why principles for using a definition in a legal context are as important as the definition itself.

Respect for a religious organization's self-understanding should be the starting point of a new jurisprudence, but it does not require courts to abdicate their role of making decisions and setting limits. Instead, it challenges courts and other participants in the legal system to honor that self-understanding while channeling it in ways that are consistent with our constitutional system. The Supreme Court's decision in *Employment Division v. Smith*,[6] and the controversy which has come in its wake, highlights the complexity of this challenge.

The First Congress and the early state legislatures recognized the unique station of religion and quite properly put it in a specially protected category by adopting the First Amendment to the United States Constitution. Religion is also specially addressed in the constitutions of each of the fifty states. The Religion Clauses of the federal Constitution do not stand apart from the balance of our legal system. They infuse the legal system and shape its treatment of religion—or at least they should. The central question addressed in our collection of essays is: How is religious freedom affected by the legal system's treatment of organized religion's self-understanding?

These essays are divided into five main sections, each of which deals with the civil law treatment of a religious tradition in different contexts. In addition to this Prologue, the associate editors have introductory remarks at the beginning of the second, third, and fourth sections.

Sometimes the focus of the chapters is on the religious tradition itself; sometimes it is on a particular kind of activity, organization, or institution. The chapters in the first section lay a foundation for the rest of the book by showing how the law treats religious endeavors differently from other human activities. Durham and Sewell begin with an analysis of the task of defining religion and critical comparisons of the various ways it is defined in the law and other relevant literature. They push this effort to the limits and show the complexities in selecting a definition that is universal yet still helps separate religion from the rest of human experience. In the process, they also explore definitions of related terms such as "church" and "religious organizations."

The next chapter carries forward the effort to distinguish religion from other enterprises, and focuses on religious polity—the governance and structure of religious organizations. The authors discuss the strengths and weaknesses of how the religious understanding of this governance and structure has been translated into civil law terms. They also make suggestions on how to improve the situation, especially in the face of challenges that are confronting religious organizations today.

There follows an empirical study of religious organizations' expressed views on the law's treatment of their self-understanding. This study confirms an important theme that is played out in the other chapters: that the fairly uniform application of the commercial law's language and concepts to religious traditions has a leveling impact on the law's treatment of organized religion. Instead of respecting and reflecting each religious tradition's self-understanding, this approach tends to make all religious traditions appear similar—at least as viewed in a legal context—even when they may actually be very different.

The first section concludes with chapters on the federal Constitution and the constitutions of various states. These chapters highlight the treatment these constitutions give religious organizations.

6. 494 U.S. 872 (1990).

The second section is devoted to an analysis of the legal structures available to organized religion and their modes for dealing with their ownership of real estate. Hence the chapters in this section address the matter of corporations, unincorporated associations, trusts, church property disputes, and government finance of religious organizations. Importantly, this segment includes discussion of the often misunderstood "neutral principles of law" concept.

The third section builds on the first two by canvassing some of the substantive areas of the law and how they apply to religious organizations. Accordingly, it includes essays on liability principles, sexual misconduct with minors by some clergy, federal and state taxation, and employment.

The fourth section focuses on some of the activities in which religious traditions engage. These include education and health care.

The fifth section contains two chapters on how constitutional principles that guarantee religious freedom are impacted by the law's treatment of a religious tradition's self-understanding. The authors of these chapters use elements in the previous essays as reference points for their analyses. The volume concludes with an epilogue that addresses some of the thoughts expressed in these chapters.

This book was planned and produced over an extended period of time. Given the number of chapters and authors, different portions of the book were completed at different times and some may be more current than others in some sense of the word "current." A few authors have supplemented their chapters with appendices or footnotes to deal with important new developments. Most do not. More pertinently, this is a book about basic principles governing the relationship between religious organizations and the law in our society, not a catalog of each and every recent legal precedent. As a study of principles, all of the chapters are quite up to date and current, even if they do not mention this or that recent precedent.

It is important to emphasize that this book is a collection of essays by different authors—not the work of a single scholar, which one would expect to be sharply focused throughout and tightly hewn to a central topic or question. The richness of a multi-author work derives from the fact that each author poses and addresses questions in a different way. The questions are matched neither with each other nor with complete answers that neatly dovetail to form an harmonious whole. Instead, the essays reflect differences of opinion in an ongoing discussion. Questions and fragments of questions stand side-by-side with answers, parts of answers, and even misunderstandings and new questions. The goal has not been to bring the discussion to a firm conclusion, but to advance it by exposing it to a broader public and encouraging further inquiry. It is in this spirit that we present this book.

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