

***The Contested Place of Religion in Family Law.* By Robin Fretwell Wilson (ed.). Cambridge University Press, 2018, xxi + 717 pp., £ 95, ISBN 978-1-108-41760-0 (hardback).**

Many of today's most visible debates about religious liberty have involved issues related to the family. Nonprofit and for-profit employers with religious objections to facilitating access to some or all contraceptives have fought the application of the contraception mandate under the Affordable Care Act, and their opponents have argued that greater protections for religious liberty will unfairly restrict the choices of female employees regarding childbearing and family definition. Years of controversy have spawned heated debates about the requirements and limits of religious accommodation under the First Amendment, federal religious liberty legislation, and parallel state laws. These battles have yielded two Supreme Court decisions. One of these decisions, *Burwell v. Hobby Lobby Stores, Inc.*, became a lightning rod for criticism as the Court robustly interpreted the protections for religious liberty in the Religious Freedom Restoration Act (RFRA). Defenders and critics alike recognized that *Hobby Lobby* had implications for another highly charged controversy involving the family: same-sex marriage and related protections for conservative religious believers who object to facilitating same-sex marriages in their religious ministries or in their roles as government employees or vendors of marriage-related goods and services. With the recognition of same-sex marriage, first at the state level and now as a constitutional right in *Obergefell v. Hodges*, religious believers with traditional views of marriage and family have worried that prohibitions against discrimination on the basis of sexual orientation will restrict their ability to follow their faith in their public and private lives. Claims for religious exemptions from antidiscrimination rules have met strong resistance from those who argue that exceptions will harm same-sex couples and interfere with their own freedom in family matters.

This excellent collection of essays begins with these familiar controversies regarding religion and the family, but the scope of the book extends much further as it explores the multifaceted relationship between religion, religious liberty, and family law across the family's life cycle from birth, family formation, childrearing to the end of life. Contributors include top scholars in the fields of law and religion and of family law as well as legislators, attorneys, doctors and ministers who have worked on issues at the intersection of religion and the family. International perspectives at the end of the volume shed light on domestic disputes.

The first of the collection's seven parts introduces the reader to current protections for religious liberty in constitutional, federal, and state law and to debates about how robustly these protections should be understood. As disputes about religious liberty have become embroiled in the culture wars and the most visible religious claimants are no longer members of small minorities but, rather, more populous and powerful faiths, support for accommodating religious practice in conflicts with the state has eroded among both scholars and the broader public, and concerns about the costs of accommodation for third parties have increased. The essays in Part I present very different appraisals of this trend and divergent interpretations of existing religious liberty protections.

The essays in the next four sections of the collection are organized according to specific stages in the life cycle of the family beginning with birth in Part II. Many of the essays in Part II focus on issues familiar from the preceding section. Several engage recent disputes over the contraceptive mandate, and another addresses religious refusals by doctors and pharmacists to issue emergency contraceptives believed to have the potential to cause abortions. All of these claims have a similar structure. Religious believers object to being complicit in conduct that violates their religious views about family values. Their claims encounter resistance from those who believe that the relief they seek would compromise the ability of others to make their own decisions regarding family definition and childbearing. The exchange among the authors in this section is often heated, and at points it illustrates the distrust and suspicion that make these conflicts so difficult to resolve.

A different kind of claim is analyzed in the final essay in Part II and in many of the essays in Part III, which addresses religion in childrearing. This type of claim is made by religious minorities who seek to follow religious practices within their families that collide with broader societal norms regarding child welfare. Part II's final essay looks at emerging opposition to child male circumcision in the United States and, to an even greater degree, in Europe. Several essays in Part III examine clashes over faith healing, corporal punishment, and religious education. The Supreme Court has long interpreted the Constitution to afford parents substantial autonomy over childrearing, and many states have additional legislative protections. However, there are limits to parental rights where decisions harm children, and these essays explore what these limits should be and whether states are doing enough to protect children. Other essays in Part III explore additional facets of the relationship between religion and childrearing, including the positive role that religion can play in childrearing and the ways in which religious institutions can support beneficial parenting norms in marital and nonmarital contexts.

The essays in Part IV, which address marriage after *Obergefell*, also demonstrate the complex relationship between religion and our broader cultural and legal norms regarding the family. *Obergefell* should not be viewed as a victory for secularism over religious views of marriage, one author argues; Western religious traditions can support same-sex marriage. The temptation among some religious conservatives to separate religious marriage from the state is misguided, another argues, as it would undermine the institution of marriage and the norms and protections that benefit all participants. Several essays address polygamy. Polygamy, these authors argue, is different than same-sex marriage. Its recognition or accommodation would involve serious harms to women and children and to the broader society. Part V, which addresses religious claims at the end of life, is a short section, and it examines the ways in which the law facilitates patient self-determination regarding end of life decisions and the complications that can arise when family members and medical providers with different religious views are also involved.

Some of the most interesting essays in this volume appear in the final two sections. Part VI, titled "Shaping the Legal Culture of the Family," opens with a riveting account of the legislative compromise in Utah that has linked valuable protections for LGBT persons with significant protections for religious liberty. Written by the Senate Majority Whip of the Utah

State Senate, this account demonstrates that resolution of the sharp tensions illustrated in earlier chapters is possible. One fact, in particular, stands out: the impetus for this compromise was the Mormon Church. Later essays in this chapter demonstrate that the recognition of same-sex marriage has involved a dialectic process including courts, legislatures and social movements and, indeed, normative contributions from religious traditions that have opposed same-sex marriage.

The international perspectives in Part VII close the volume with several cautionary lessons. These include the risks of oversimplifying the multi-faceted relationship between America's religions and family law, and the dangers of overstating the harms associated with accommodating minority religious practices well outside the American mainstream. Many of the essays in this collection articulate limits to religious freedom when there are harms to children, other vulnerable family members and third parties. Fittingly, the volume ends with an essay that urges caution. This essay's examination of limitations on Muslim religious dress in Europe demonstrates that religious prejudice and anti-immigrant sentiment can color estimations of the harms that are associated with minority religious practices.

The *Contested Place of Religion in Family Law* is an important and valuable book. Over the course of almost 700 pages, essays from a variety of different perspectives address many different contexts and issues that bring religion, religious liberty, and family law into contact and often conflict. Each of the volume's seven parts could be developed into a book of its own, and in a comprehensive volume like this one, there are limits to how many voices can be included within each topic. However, one of the benefits of this volume is its broad scope, and common questions and themes run throughout contributions that sometimes reinforce and often challenge one another. Scholars of family law and law and religion will benefit from the collection's comprehensiveness and from excellent scholarship exploring facets of the relationship between religion and family that may at times be unfamiliar. The book is also an invaluable resource for anyone seeking an overview of the connections between religion, religious liberty, and family law, and it provides all readers with deep engagement on specific topics. A book of this length and scope is ambitious, and this collection delivers on its promise.

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