



The School of Salamanca

A Digital Collection of Sources and
a Dictionary of its Juridical-Political
Language

Lunch Talk: “Sharia in the West? What Place for Faith-Based Family Laws in Western Democracies?”

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Max-Planck-Institut für europäische Rechtsgeschichte

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John Witte, Jr. / Emory University (Atlanta/Georgia)

“Sharia in the West? What Place for Faith-Based Family Laws in Western Democracies?”

Anglican Archbishop Rowan Williams set off an international firestorm on February 7, 2008 by suggesting that some “accommodation” of Muslim family law was “unavoidable” in England. His critics charged that England will be beset by “licensed polygamy,” barbaric procedures, and brutal violence against women if official sanction is given to Shari’a courts. But the Archbishop was not calling for the establishment of a parallel system of independent Muslim courts in England, and certainly not for the direct enforcement of Shari’a by English courts. He was, instead, raising a whole series of hard but “unavoidable” questions about marital, cultural, and religious identity and practice in Western democratic societies committed to human rights for all.

This Lecture discusses those hard questions, with emphasis on the place of faith-based family laws in modern liberal societies. It briefly reviews the history of the law of marriage and religion in the West, including the liberalization movements of the last half century that have rankled many faith communities. It then analyzes the recent arguments for and against the

accommodation of Shari'a family law in Western democracies, and compares those to the accommodation claims of Jewish and Christian communities. The Article suggests that one way forward is to consider the compromise struck between the state and religious communities regarding education, and the use of licenses and accreditation requirements to ensure a baseline of common education in public and religious schools, and a safeguard against abuses by religious officials.

John Witte, Jr., JD (Harvard), is Jonas Robitscher Professor of Law, Alonzo L. McDonald Distinguished Professor, and Director of the Center for the Study of Law and Religion Center at Emory University. A specialist in legal history, marriage law, and religious liberty, he has directed numerous international projects on democracy, human rights, and religious liberty, and on marriage, family, and children, as well as published 220 articles, 15 journal symposia, and 27 books. He edits the book series "Studies in Law and Religion" (Eerdmans) and "Law and Christianity" (Cambridge University Press).

This Lecture is organized by the Project *The School of Salamanca. A Digital Source Collection and a Dictionary of Its Juridical-Political Language* in occasion of its yearly Advisory Board meeting. John Witte is one of the project's international advisers.

Contact

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