

Index

- abortion, 123–137
 Abortion Argument, 134
 ban on, definition of, 123
 beginning of human life argument and, 125
 conception of life v. fertilization and, 127
 dignity of unborn and, 16
 “ensoulment” by God and, 127–129
 as government interest, 124
 laws banning, 2
 moral freedom and, 123–124, 136
Roe v. Wade and, 135
 viability of fetus and, 131–133
 Abortion Argument, 134
 Ackerman, Bruce, 47–48
ACLU of Ohio v. Capitol Square Review & Advisory Board, 108
Adarand Constructors, Inc. v. Peña, 181
 adoption bans
 for homosexuals, 174, 199–200, 202
 moral freedom and, 201
 affirmative action, 177–181
 arguments against, 178–179
 white treatment under, 178
 African Americans, lynching of, 12
After Theory (Eagleton), 34
 agape, religious belief and, 36–37
 Nietzsche and, 46
 ‘age of genocide,’ 13
 agent-neutrality, 41, 50
 agent-relativity, 50
 Alexander, Frank S., 5
 Alexander, Larry, 197
 alienation, 110
 Alston, Philip, 170
 altruism, 31
 Tawney on, 50
 Amar, Akhil, 103
 amendments, to U.S. Constitution
 First Amendment, 173, 190
 Fifth Amendment, 188–189
 Eighth Amendment, 160, 168, 185–186, 188, 190
 Fourteenth Amendment, 174, 180, 188, 196
 process for, 159, 185
 American Constitutional Law, 164
 American Law Institute, 96
 American Psychological Association, 148
 Amnesty International, 14
 analogy, 32
 anti-miscegenation laws, 63. *See also Loving v. Virginia*
 moral equality and, 171
 Appleby, R. Scott, 83
 Aquinas, Thomas, 30, 32, 98, 128
 Aristotle, 148
 atheism, 49
 of Nietzsche, 46, 51
 nonestablishment norm and, 115
 Augustine (Saint), 40
 authenticity, in religious belief, 39
 authoritarianism, human rights under, 9, 26
 Barry, Brian, 111
 Bayle, Pierre, 52
Baze v. Rees, Commissioner, Kentucky Department of Corrections, 189
 Benedict XVI (Pope), 70
 Bentham, Jeremy, 22
 Berkowitz, Peter, 145

Index

- The Bible
 commandments in, 34–35
Corinthians, 36
John, 33–35
Matthew, 35
- Bickel, Alexander, 165, 166
- Bill of Rights
 in South Africa, 159, 160
 in U.S., 185, 194
- Bloody Tenent* (Williams, R.), 67
- Bokser, Baruch M., 31
- Bokser, Ben Zion, 31
- Bonhoeffer, Dietrich, 19
- Boniface VIII (Pope), 70
- Boonin, David, 129–131
- Bork, Robert, 194
- Bosnia, genocide in, 12
- Brandeis, Louis, 164
- Brennan, William, 102, 112
- Brown v. Board of Education*, 63, 174, 196
- Bryant, Anita, 200
- Buddhism, 89
- Burma, 9, 25
- Bush, George H. W., 15, 71
- California Supreme Court, 177
- Cambodia, genocide in, 12
- Canada
 Charter of Rights and Freedoms for,
 160, 179
 Constitution Act of 1982 in, 160
 Constitution of, 90
 Supreme Court of, 73, 162, 178–179
 capital punishment, 189
 Eighth Amenders on, 189–190
- Carter, Jimmy, 15
- Castro, Manuel Monteiro de, 151
- Catholicism. *See* Roman Catholic Church
- Charter of Rights and Freedoms, in
 Canada, 160, 179
- China
 government perception of religion in,
 76
 socialist democracy in, 9, 26
- Christian Jurisprudence Project, 1, 5
- Christian Science, as religion, 74
- Christianity, 27, 45
 concept of love and, 33, 45
 doctrine of, 35
- Christopher, Warren, 56
- Church of England, 101, 111
- civil rights, denial of, by Roman Catholic
 Church, 83–84
- Civil Rights Act of 1964 (U.S.), 160
- civil unions, 146. *See also* same-sex unions
 traditional marriage v., 146–147
- Civil War, in Spain, 85
- coercion. *See* religious coercion
- commercial speech, 173
- Commonweal*, 128
- community, religious belief and, 43
- conception of life, fertilization v., 127
 OCBA and, 130
 viability of fetus and, 131–133
- concretization, 191
- Congo, genocide in, 12
- Connecticut Supreme Court, 177
- Constitution Act of 1982 (Canada), 160
- Constitution of Canada, moral freedom
 under, 90
- Constitution of the Republic of Ireland,
 110
 religion in, 110–111
- Constitution of the Republic of South
 Africa, 160, 170–171
- “constitutional bedrock,” 194
- constitutional interpretation, 184–197
 from “constitutional bedrock,” 194
 constitutional norms in, 190–193
 definition of, 185–190
 of Eighth Amendment, 168
 of Fourteenth Amendment, 174, 196
 of right to privacy, 182, 184
 specification in, 191–192
 specifications of, 190–191
- constitutional norms, 190–193
- constitutionality
 morality and, 2
 of political behavior, 162–163
 of racial discrimination, 175–176
 of same-sex unions, 177
- constitutions. *See* Constitution of Canada,
 moral freedom under; Constitution
 of the Republic of Ireland; U.S.
 Constitution
Corinthians, Book of, 36
- Corvino, John, 63
- court system, in U.S., religion in, 103–104
- crimes against humanity, under
 international law of human rights, 14

Cambridge University Press

978-0-521-11518-6 - The Political Morality of Liberal Democracy

Michael J. Perry

Index

[More information](#)*Index*

- crimes of aggression, 14
- cruel and unusual punishment. *See* Eighth Amendment, to U.S. Constitution
- Darfur. *See* Sudan, genocide in
- Darrow, Clarence, 48–49
- Darrow, Mac, 170
- death penalty. *See* capital punishment
- Declaration of Independence (of U.S.), 105–106
- Declaration of Independence to the Universal Declaration of Human Rights of the United Nations, 17
- Declaration on Religious Freedom, 80
- Declaration of the Relation of the Church to Non-Christian Religions, 44
- Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion Belief, 72
- nonestablishment norm in, 112
- A Defense of Abortion* (Boonin), 129–131
- democracy. *See also* liberal democracy
- definition of, 9–10
- Roman Catholic Church and, 86
- socialist, 9, 26
- in Spain, 84–85
- Dicey, Albert Venn, 161
- Die Linke, 78
- Dignitatis Humanae*, 80–87. *See also* Second Vatican Council
- criticism of, 83
- religious coercion in, 82
- right to religious freedom under, 81–82
- dignity
- as concept, 17
- definition of, 16–17
- under ICCPR, 62
- as inherent, 28, 30
- as inviolable, 54, 126–127
- liberal democracy and, 10–11, 27
- moral freedom and, 92
- in morality of human rights, 46
- religious belief and, as factor in inherent nature of, 51–52
- under secularism, 52–53
- Smith on, 54
- of unborn, 16
- under U.S. Constitution, protection of, 173–177
- viability of fetuses and, 131
- discrimination. *See also* religious coercion
- antimiscegenation laws as, 63
- constitutionality of, 175–176
- under ICCPR, 16–17, 62
- against racial minorities, 63, 175–176
- from religious coercion, 114
- toward homosexuality, 139–140, 199–202
- toward women, 63
- U.S. Supreme Court and, 175–177
- against women, 175–176
- Divine Command Theory, 42
- Doctrine of Faith, 103
- doctrine of judicial supremacy, 163
- domestic partnerships, 139
- duty, rights v., 24
- Eagleton, Terry, 34
- East Germany, 9
- Eberle, Chris, 132–133
- Eighth Amenders, 188
- on capital punishment, 189–190
- Eighth Amendment, to U. S. Constitution, 160, 185–186, 188, 190
- interpretation of, 168
- Einstein, Albert, 128
- Eisenstadt v. Baird*, 182
- “Elements of a Theory of Human Rights” (Sen), 19
- Elk Grove Unified School District v. Newdow*, 112–113
- emotional suffering, 19
- Encyclopedia of Genocide*, 13
- Engelhardt, H. Tristram, 125
- equal protection clause. *See Brown v. Board of Education*; Fourteenth Amendment, to U.S. Constitution
- equality. *See* moral equality
- ethics
- in natural law, 39–40
- philosophical, 45, 47
- eudaimonia, happiness v., 40
- European Court of Human Rights, 182
- evil, as concept, 38–39
- extra ecclesiam nulla salus* (“outside the church no salvation”), 69
- for Roman Catholic Church, 70

Index

- families, contemporary forms for, 144
 Farley, Margaret, 152
The Federalist Papers (Madison), 191
 fertilization, conception of life v., 127
 OCBA and, 130
 viability of fetus and, 131–133
Fides et Ratio (John Paul II), 44
 Fifth Amendment, to U.S. Constitution,
 188–189
 Finke, Roger, 65
 Finnis, John, 24, 191
 First Amendment, to U.S. Constitution,
 190
 commercial speech under, 173
The First Letter of John, 30
 Fitzgerald, F. Scott, 56
 Foot, Philippa, 46
 forced labor. *See* slave labor
 forgiveness, in religious belief, 37
 Fourteenth Amenders, 189
 Fourteenth Amendment, to U.S.
 Constitution, 180, 188
 interpretation of, 174, 196
 Fourth Lateran Council, 32
 France, nonestablishment of religion in,
 100–101
 Frank, Anne, 128
 Frankfurter, Felix, 164, 165
 Free Exercise clause, of U.S. Constitution,
 96
 freedom. *See* moral freedom, as right
 fulfillment, 40
- Gabin, Sanford, 167
 Gadamer, Hans-Georg, 192
 Gaita, Raimond, 45, 47
 gender
 discrimination by, 175–176
 same-sex unions by, 147–149
 genocide
 in Bosnia, 12
 in Cambodia, 12
 in Congo, 12
Encyclopedia of Genocide, 13
 under Hitler, 12
 under international law of human
 rights, 14
 loss of life from, 12–13
 under Mao Tse Tung, 12
 under Ottoman Turks, 12
 in Rwanda, 12
 in Sudan, 12
 in Yugoslavia, 14
 George, Robert, 52, 95
 German Democratic Left Party (PDS), 78
 Gettysburg Address, 105
 global morality, 28
 God
 in concept of love, 30
 in Divine Command Theory, 42
 “ensoulment” by, 127–129
 as supreme legislator, 41–42
 government interests
 ban on abortion as, 124
 legitimacy of, 92
 moral freedom and, 91–94
 moral health as, 94
 moral truths and, 92–93
 moral unity as, 93–94
 protection of marriage as, 145
 religious freedom and, 75–77, 79
 same-sex unions and, 143
 governments
 affirmation of religions by, 101–114
 autonomy of religion under, 84–85
 ban of religion by, under international
 law of human rights, 71–72, 75
 human rights regulation by, 21
 moral equality and, as right against, 62
 moral freedom under, 91
 protection of religious truth by, 75–78,
 84–85
 protection of religious unity of society
 by, 78–79
 right to religious freedom and, interests
 of, 75–79
 Second Vatican Council on, 85
 suffering imposed by, 19
 Greenawalt, Kent, 101, 114
 Greene, Graham, 38
 Griffin, James, 25, 26, 141
 Grim, Brian, 65
 Guess, Raymond, 23
 Gysi, Gregor, 78
- Habermas, Jürgen, 36, 42–43, 45
 happiness, eudaimonia v., 40
Harvard Law Review, 164
 hate, as concept, 38–39. *See also* evil, as
 concept

Index

- Herero peoples, 12
 Heschel, Abraham, 48
 Hills, Roderick, 147
 Himmler, Heinrich, 140
 Hitler, Adolph, genocide under, 12
 Holmes, Oliver Wendell, 164
 the Holocaust, 12
 homosexuality, 94. *See also* same-sex unions
 California Supreme Court and, 177
 historical discrimination against,
 139–140, 199–202
 religious lawmaking and, 114–115
 religious view of, 115
 Roman Catholic Church on, 140–141,
 150
 U.S. Supreme Court rulings, 176–177
 homosexuals, as adoptive parents, 174,
 199–200, 202
*In the Matter of the Adoption of John Doe and
 James Doe*, 199–200, 202
 moral equality for, 201
 scientific support for, 201–202
 human life, beginning of
 abortion and, 125
 conception v. fertilization and, 127
 human right foundationalism, 54–55
 human rights. *See also* international law of
 human rights; universality, of human
 rights
 activists for, 53
 under authoritarianism, 9, 26
 denial of, 57
 dignity and, 16
 foundationalism for, 54–55
 government regulation of, 21
 indetermination of, 18–19
 International Bill of Human Rights,
 15–18, 28
 inviolability and, 17–18, 28
 Judaism and, 29
 in law, 20
 liberal democracy and, 7–26, 159
 morality of, 11–16, 18–19, 28, 46–57
 perfect v. imperfect duties for, 18–19
 religious belief and, 36–40
 Sen on, 19
 treaties for, 14
 under United Nations guidelines, 18
 universality of, 9, 26
 Human Rights Watch, 9, 26
 ICCPR. *See* International Covenant on Civil
 and Political Rights
 ICESCR. *See* International Covenant on
 Economic, Social, and Cultural Rights
 imago Dei, 32
 Immigration Act of 1995 (U.S.), 3
*In the Matter of the Adoption of John Doe and
 James Doe*, 199–200, 202
 India, constitution of, 178–179
 International Bill of Human Rights, 15–18,
 28
 components of, 15–16
 international law of human rights and,
 56
 International Covenant on Civil and
 Political Rights (ICCPR), 15
 development of, 71
 dignity concept under, 62
 discrimination under, 16–17, 62
 moral freedom under, 96–97
 right to religious freedom under, 71–73
 Syracusa Principles in, 72, 97
 International Covenant on Economic,
 Social, and Cultural Rights (ICESCR),
 15
 International Criminal Court, 14
 Rome Statute of, 14
 international law of human rights, 56–57
 crimes against humanity under, 14
 crimes of aggression under, 14
 development of, 13–18
 genocide under, 14
 governmental ban of religion under,
 71–72, 75
 human rights treaties and, 14
 International Bill of Human Rights and,
 56
 moral equality under, 62
 rules of, 14–15
 UN role in, 14
 war crimes under, 14
*An Introduction to the Study of the Law of the
 Constitution* (Dicey), 161
 intuition, moral, 42–43
 inviolability
 definition of, 17
 of dignity, 54, 126–127
 human rights and, 17–18, 28
 in morality of human rights, 46, 50–51
 Iowa Supreme Court, 177

Index

- Ireland. *See* Constitution of the Republic of Ireland
- Islam, religious freedom and, 85
- Jefferson, Thomas, 67, 68
- Jesus, as moral guide for human rights, 36–40
- Jews, genocide of, 12
- John, Book of*, 33–35
- John Paul II (Pope), 44, 75, 90, 103
- John XXIII (Pope), 86
- Johnson v. California*, 176
- Judaism
 ethic of justice under, 45
 morality of human rights and, 29
 same-sex unions under, 153–155
 universality of human rights in, 31
- judicial deference, 162–171
- judicial nondeference, 164
- judicial review, 168–169
 arguments against, 170–171
- judicial supremacy, 168
 doctrine of, 163
 Waldron on, 169
- justice as concept, under Judaism, 45
- Kahn, Paul, 164
- Kant, Immanuel, 18, 36–37
- Kaveny, Cathy, 131
- Kay, Richard, 195–196
- Kelsen, Hans, 191
- Kesavan, Vesan, 187
- King, Martin Luther Jr., 20
- Koppelman, Andrew, 140
- Korematsu v. United States*, 203
- Kramer, Larry, 171
- Kronman, Anthony, 192
- Kundera, Milan, 43
- labor. *See* slave labor
- Larmore, Charles, 10
- law(s), 3
 antimiscegenation, 63
 human rights in, 20
 illicit view as basis for, 62–64
 moral equality violated by, 174–175
 morality and, 18–21, 98
 racial minorities under, 63
 religion as basis for, 4, 100–119
 as rights violation, 167
 as unconstitutional, 162, 168
 women under, disadvantages of, 63
- Laycock, Douglas, 70
- Lederman, Cyndy S., 199–202
- Lee, Patrick, 52
- legal cases
 ACLU of Ohio v. Capitol Square Review & Advisory Board, 108
 Adarand Constructors, Inc. v. Peña, 181
 Baze v. Rees, Commissioner, Kentucky Department of Corrections, 189
 Brown v. Board of Education, 63, 174, 196
 Eisenstadt v. Baird, 182
 Elk Grove Unified School District v. Newdow, 112–113
 Johnson v. California, 176
 Korematsu v. United States, 203
 In the Matter of the Adoption of John Doe and James Doe, 199–200, 202
 Planned Parenthood of Southeastern Pennsylvania v. Casey, 183
 Plessy v. Ferguson, 203
 Roe v. Wade, 135
 Rowland v. Mad River School District, 177
 for same-sex unions, 142–144
- legal rights, 22
 fundamental, 61
 under international law of human rights, 9, 26
- Leopold II (King), 11–12
- Letter Concerning Toleration* (Locke), 66, 68
- Levi, Primo, 20, 43
 “us-ism” for, 43
- liberal democracy
 dignity as part of, 10–11, 27
 fundamental legal rights under, 61
 governmental interests under, for religious freedom, 77
 human rights and, 7–26, 159
 moral equality and, 61
 as pluralistic, 79
 political morality of, 1, 202
 as post-Nuremberg democracy, 11
 principles of, 11
 religion and, 27–45
 religious freedom and, 65, 70–80
 religious lawmaking in, 118–119
 right to religious freedom under, 65–87
- Lincoln, Abraham, 105
- Linker, Damon, 4–5

Cambridge University Press

978-0-521-11518-6 - The Political Morality of Liberal Democracy

Michael J. Perry

Index

[More information](#)*Index*

- Locke, John, 66, 68, 76, 95
 on religious tolerance, 66–67
- love, as concept, 33, 45
 God and, 30
 for strangers, 38
- Lovin, Robin, 93
- Loving v. Virginia*, 63, 174
- Lutheran Church, 111
- lynching, 12
- MacIntyre, Alasdair, 24
- Madison, James, 67–68, 76, 191
- males, same-sex unions between, 147–148
- Mao Tse Tung, genocide under, 12
- Maritain, Jacques, 28–29
- marriage, traditional, 154
 civil unions v., 146–147
 as healthy for society, 145
 for procreative purposes, 150, 152
 same-sex unions v., 144–146
 social purpose of, 149
- Marshall, John, 166
- Marshall, Thurgood, 112, 181
- Martino, Renato (Cardinal), 83
- Marx, Karl, 53
- Matthew, Book of*, 35
- maxims of political morality, 161
- McCabe, Herbert, 35
- McConnell, Michael, 95, 194
- McCormick, Richard, 135
- McDonald, Alonzo, 5
- meaning, as religious, 48
- Melville, Herman, 10
- Memorial and Remonstrance against Religious Assessments* (Madison), 67–68, 76
- Milosz, Czeslaw, 55–56
- Model Penal Code, 96
- moral equality, 61–64
 antimiscegenation laws and, 171
 as desirous ideal, 130–131
 for homosexuals as adoptive parents, 201
 under international law of human rights, 62
 liberal democracy and, 61
 as right against government, 62, 200
 for same-sex unions, 139
 violation of, by laws, 174–175
- moral freedom, as right, 88–99, 198–199
 adoption ban as violation of, 201
- ban on abortion and, 123–124, 136
 under Canadian Constitution, 90
 as commitment, 93
 dignity and, 92
 government interests and, 91–94
 under governments, 91
 under ICCPR, 96–97
 religious freedom v., 89, 98
 for same-sex unions, 141, 142, 149, 155
 under Supreme Court of Canada, 90
 under U.S. Constitution, 96
- moral health, 94
 psychological health and, 94
- moral intuition, 42–43
- moral rights
 as enforceable, 23–25
 language of, 24–25
 of the unborn, 125–126, 128, 137
 utility of, 24
- moral truths, 92–93
- moral unity, 93–94
- morality. *See also* moral equality; political morality
 biological roots of, 33
 constitutionality and, 2
 as global, 28
 law and, 18–21
 legal regulation of, 98
 religion-based, legal issues and, 4
- morality of human rights, 11–16, 18–19, 28, 46–57
 dignity claim in, 46
 inviolability claim in, 46, 50–51
 Judaism and, 29
- morals legislation, 98
- Murdoch, Iris, 37
- Murray, John Courtney, 85, 86, 88, 98
- Mussolini, Benito, 78
- Nagel, Thomas, 10, 49
- Nama peoples, 12
- Namibia, 12
- National Association to Secure the Religious Amendment to the Constitution, 109
- natural law
 ethics in, 39–40
 Thomistic theory of, 33
- Natural Law and Natural Rights* (Finnis), 24
 “natural” rights, 22–23

Index

- Nazis, Jewish genocide under, 12
 “negative” religious freedom, 105. *See also*
 atheism
The New Jerusalem Bible, 38
 Nickel, James, 22–23
 Niederauer, George H., 151
 Nietzsche, Friedrich
 agape and, 46
 atheism of, 46, 51
 nihilism, 47–48
 nonestablishment norm, 104,
 107–112
 atheism and, 115
 in Declaration on the Elimination of All
 Forms of Intolerance and of
 Discrimination Based on Religion
 Belief, 112
 for religious lawmaking, 104, 107–109,
 112, 115, 117
 same-sex unions and, 154
 U.S. Supreme Court enforcement of,
 109
 Noonan, John, 85
 normative agents, 53
 North Korea, 9
 Novak, William, 96
 Nozick, Robert, 48
- Obama, Barack, 199
 OCBA. *See* organized cortical brain activity
 O’Connor, Sandra Day, 112
On Human Rights (Griffin), 141
 O’Neill, Aidan, 11
 organized cortical brain activity (OCBA),
 129–130
 “The ‘Origin and Scope of the American
 Doctrine of Constitutional Law’
 (Thayer), 164–165
 originalism, 197
 other-regard, in religious belief, 40
 Ottoman Turks, genocide under, 12
 Outka, Gene, 136
The Oxford English Dictionary, 16–17
- Parable of the Good Samaritan, 37–38
 Paul VI (Pope), 80, 86
 Paulsen, Michael Stokes, 187
 PDS. *See* German Democratic Left Party
 philosophical ethics, 45
 concepts of, 47
- Planned Parenthood of Southeastern
 Pennsylvania v. Casey*, 183
 Plato, 148
 Pledge of Allegiance (U.S.), 106
 religious addition to, 103–107
Plessy v. Ferguson, 203
 pluralism, liberal democracy and, 79
 political freedom, popular sovereignty and,
 172–173
 political morality, 1
 definition, 1, 202
 maxims of, 161
 politics, religion and, role in, 2, 51
 Pope, Stephen, 33
 popular constitutionalism, 171
 popular sovereignty, right to political
 freedom and, 172–173
 for citizenry, 172
 Posner, Richard, 49, 139, 168
 on *Roe v. Wade*, 135
 post-Nuremberg democracy, 11
 Price, T. W., 50
 privacy rights, 182, 184
 Proposed Initiative Act No. 1, 174
 Protestants, distrust of Catholic Church by,
 81
 Putnam, Hilary, 31
- racial minorities
 antimiscegenation laws and, 63
 discrimination against, 63, 175–176
 Rahner, Karl, 34
 Ratzinger, Joseph 70. *See also* Benedict XVI
 reductionism, 49
 Rehnquist, William, 112
 Reilly, Daniel P., 151
 religion
 affirmation of, by governments,
 101–104, 114
 analogy in, 32
 autonomy of, under government rule,
 84–85
 in Constitution of the Republic of
 Ireland, 110–111
 “ensoulment” by God and, 127–129
 homosexuality and, 115
 imago Dei in, 32
 laws based on, 4, 100–119
 liberal democracy and, 27–45
 in national currency, 103

Index

- in Pledge of Allegiance, 103–107
- role in politics for, 2, 51
- same-sex unions and, 152–153
- in U.S. court system, 103–104
- in U.S., diversity of, 3–4
- under U.S. Constitution, establishment of, 101
- violence as result of, 13
- religious belief
 - agape and, 36–37
 - atheism v., 49
 - authenticity in, 39
 - community and, 43
 - dignity as concept and, 51–52
 - forgiveness in, 37
 - hate and, 38–39
 - Jesus as moral guide for human rights and, 36–40
 - origin questions in, 43
 - other-regard in, 40
 - problem of meaning and, 48
 - reasons for action in, 50–51
 - role of God in, 41–42
 - self-fulfillment in, 41
 - self-regard in, 40
- religious coercion, 72
 - in *Dignitatis Humanae*, 82
 - discrimination as result of, 114
 - through lawmaking, 114, 118
- religious freedom, as right, 65–87
 - belief in inferiority of other faiths as, 75–76, 103
 - Christian Science and, 74
 - coercion and, 72
 - as conditional, 73–75
 - under Constitution of Republic of Ireland, 110
 - denial of, 69
 - under *Dignitatis Humanae*, 81–82
 - government bans and, 71–72, 75
 - governmental interests in, 75–77, 79
 - under ICCPR, 71–73
 - Islam and, 85
 - liberal democracy and, 70–80
 - moral freedom v., 89, 98
 - “negative,” 475
 - for nonbaptized, 82
 - religious practices under, 73
 - religious truth under, 75–78
 - under Roman Catholic Church, 88
 - Second Vatican Council on, 103
 - Smith on, 68–69
 - under U.S. Constitution, 74, 85–86
- religious lawmaking, 4, 100–119
 - as coercive, 114, 118
 - in France, 100–101
 - homosexuality under, 114–115
 - in liberal democracy, 118–119
 - for national currency, 103
 - nonestablishment norm for, 104, 107–109, 112, 115, 117
 - rationale for, 115–116
 - Ten Commandments and, 104
 - in U.K., 118, 119
 - in U.S., 100–118
 - under U.S. Constitution, 100
- religious truth, 75–78
 - government as arbiter of, 84–85
 - Second Vatican Council on, 85
- religious unity, protection of, 78–79
- right to privacy, 182, 184
- rights, 21–26. *See also* human rights
 - duty v., 24
 - legal, 22
 - moral, 23–25
 - moral freedom, 88–99, 198–199
 - “natural,” 58
 - to privacy, 182, 184
 - to religious freedom, 65–87
 - under U.S. Constitution, 182–184
 - violations of, through laws, 167
- Roe v. Wade*, 135, 183–184
 - Posner on, 135
 - U.S. Supreme Court and, 135
- Roman Catholic Church
 - as arbiter of religious truth, 78
 - democracy and, 86
 - denial of civil rights by, for non-Catholics, 83–84
 - Dignitatis Humanae* and, 80–87
 - extra ecclesiam nulla salus* for, 70
 - on homosexuality, 140–141, 150
 - on inferiority of other faiths, 81
 - on moral rights of unborn, 128
 - on nonprocreative sex, 150, 152
 - Protestant distrust of, 81
 - religious freedom under, 88
 - on same-sex unions, 145, 150–152
 - Second Vatican Council, 44, 78, 80

Index

- Rome Statute, of International Criminal Court, 14
- Rorty, Richard, 55–56
- Roth, Kenneth, 9
- Rowland v. Mad River School District*, 177
- Rwanda, genocide in, 12
- same-sex unions, 138–155
 Christian arguments for, 153
 constitutionality of, 177
 domestic partnerships and, 139
 gender differences and, 147–149
 government interests and, 143
 government interests v., 145
 under Judaism, 153–155
 legal cases for, in U.S., 142–144
 legality of, in U.S., 138–139
 moral freedom of, 141, 142, 149, 155
 nonestablishment norm and, 154
 prediction of effects of legalization of, 147
 religious arguments against, 152–153
 right to moral equality for, 139
 Roman Catholic Church on, 145, 150–152
 sectarian religious rationales against, 153
 secular arguments against, 150–152
 state bans on, 139
 traditional marriage v., 144–146
 U.S. legal cases for, 142–144
- Scalia, Antonin, 109, 178
- Scarman (Lord), 170
- Schulz, William, 57
- Scruton, Roger, 147–148
- Second Vatican Council, 44, 78, 80, 81, 84, 86
 Declaration of Religious Freedom in, 80
 democracy under, 86
 governments as arbiters of religious truth and, 85
 on religious freedom, 103
- secularism, dignity under, 52–53
- self-fulfillment, in religious belief, 41
- self-regard, in religious belief, 40
- Sen, Amartya, 18–19, 23
 on human rights, 19
- Senturk, Recep, 42
- separation-of-powers, under U.S. Constitution, 162
- Shiffrin, Steven, 110
- Shumpeter, Joseph, 9
- Singer, Peter, 125
- Siracusa Principles, 72, 97
- slave labor, 12
- Smith, Steve, 33, 54, 108
 on alienation, 110
 on dignity, 54
 on right to religious freedom, 68–69
- socialist democracy, 9, 26
- Souter, David, 184
- South Africa
 Bill of Rights in, 159, 160
 Constitution of, 160, 170–171
 Supreme Court of, 179
- Spain
 Civil War in, 85
 democracy in, 84–85
- Spellman, Francis (Cardinal), 86
- Stalin, Josef, 12
- Sudan, genocide in, 12
- suffering, 20
 emotional, 19
 government-imposed, 19
- Sullivan, Andrew, 149
- Supreme Court of Canada, 73, 162, 178–179
 constitutional standards for, 184
 moral freedom under, 90
- Tawney, R. H., 49
 on altruism, 50
- Taylor, Charles, 27, 52
- Ten Commandments, 104
- Thayer, James Bradley, 163–166
 on judicial deference, 162–171
- Thomas, Clarence, 103
- Thomistic theory of natural law, 33
- torture, 9, 25
- Tractatus Logico-Philosophicus* (Wittgenstein), 31
- Tracy, David, 44
- traditional marriage. *See* marriage, traditional
- Tribe, Laurence, 125
- Truth and Method* (Gadamer), 192
- Tushnet, Mark, 171
- U.K. *See* United Kingdom
- Ullendorff, Edward, 34

Index

- Unam Sanctam* (Boniface VIII), 70
The Unbearable Lightness of Being (Kundera), 43
 the unborn. *See also* abortion
 dignity of, 16
 moral status of, 125–126, 137
 Roman Catholic Church on, 128
 viability of, 131–133
 United Kingdom (U.K.)
 court system in, 162
 nonestablishment of religion in, 118, 119
 United Nations (UN)
 Declaration of Independence to the Universal Declaration of Human Rights of, 17
 human rights under, 18
 international law of human rights and, 14
 United States (U.S.). *See also* U.S. Constitution
 Bill of Rights in, 185, 194
 Brown v. Board of Education in, 63
 Civil Rights Act of 1964 in, 160
 Declaration of Independence of, 105–106
 diversity of religion in, 3–4
 Immigration Act of 1995 in, 3
 international law violations by, 14–15
 Loving v. Virginia in, 63
 Pledge of Allegiance in, 103–107
 political theology in, 5
 religious belief in, 27
 religious lawmaking in, 100–118
 same-sex unions in, legality of, 138–139
 Supreme Court in, 109
 Universal Declaration of Human Rights, 15–16
 universality, of human rights, 9, 25–26
 in Judaism, 31
 U.S. Constitution. *See also* constitutional interpretation
 First Amendment, 173, 190
 Fifth Amendment, 188–189
 Eighth Amendment, 160, 168, 185–186, 188, 190
 Fourteenth Amendment, 174, 180, 188
 amendment process for, 159, 185
 capital punishment under, 189
 Establishment Clause in, 117–118
 establishment of religion under, 101
 founders of, 185
 free exercise clause in, 96
 inherent dignity protected under, 173–177
 interpretation of, 184–197
 legitimizing source of, 185
 maxims of political morality in, 161
 moral freedom under, 96
 “original meaning” of, 186–187
 popular constitutionalism and, 171
 popular sovereignty protected under, 172–173
 protecting of rights under, 182–184
 provisions in, 160
 religious freedom under, 74, 85–86
 religious lawmaking under, 100
 right to privacy under, 184
 separation-of-powers under, 162
 U.S. Supreme Court, 159–184
 affirmative action under, 177–181
 discrimination laws and, 175–177
 gender discrimination cases, 175–176
 homosexuality and, legal treatment under, 176–177
 judicial deference for, 162–171
 judicial nondeference for, 164
 judicial review for, 168–169
 judicial ultimacy of, 168
 nonestablishment norm under, 109
 racial discrimination cases, 175–176
 Roe v. Wade and, 135
 “us-ism,” 283
 violence, from religion, 13
 Virginia Statute for Religious Freedom (Jefferson), 67, 68
 Waldron, Jeremy, 169–170, 172
 on judicial ultimacy, 169
 Walsh, Michael, 81
 war crimes, 14
Washington v. Glucksberg, 183
 Watson, Micah, 5

Index

- We Hold These Truths: Catholic Reflections on the American Proposition* (Murray), 88
Weil, Simone, 30–31
Whittington, Keith, 166
Wilde, Oscar, 140
Williams, Bernard, 51
Williams, Roger, 67
Wills, Garry, 134
Witte, John, 5
Wittgenstein, Ludwig, 31
- women
 disadvantages under the law, 63
 discrimination against, 175–176
 same-sex unions and, 147–148
Workers' Educational Association, 50
World Conference on Human Rights,
 57
Wreen, Michael, 134
Yugoslavia, genocide in, 14