Since the early 1990s, politicians, policy-makers, the media and academics have increasingly focused on religion, noting the significant increase in the number of cases involving religion. As a result, Law and Religion has become a specific area of study. The work of Professor Norman Doe at Cardiff University has served as a catalyst for this change, especially through the creation of the LLM in Canon Law in 1991 (the first degree of its type since the time of the Reformation) and the Centre for Law and Religion in 1998 (the first of its kind in the UK).

Published to mark the twenty-fifth anniversary of the LLM in Canon Law and to pay tribute to Professor Doe’s achievements so far, this volume reflects upon the interdisciplinary development of Law and Religion.

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THE CONFLUENCE OF LAW AND RELIGION

Interdisciplinary Reflections on the Work of Norman Doe

Edited by

FRANK CRANMER,
MARK HILL QC,
CELIA KENNY
AND
RUSSELL SANDBERG
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Lord Williams of Oystermouth was successively Bishop of Monmouth, Archbishop of Wales and, from December 2002 to December 2012, the 104th Archbishop of Canterbury. He is currently Master of Magdalene College, Cambridge, and Chancellor of the University of South Wales. He has published widely on issues as diverse as Anglicanism, the Bible, spirituality and the Early Church. He is also a critically acclaimed poet.
FOREWORD

LORD WILLIAMS OF OYSTERMOUTH

The Confluence of Law and Religion is published to mark the 25th anniversary of the establishment of the LLM degree in Canon Law at Cardiff University and to celebrate the achievement of the course director, Professor Norman Doe. During my time as Archbishop of Canterbury, a Lambeth Doctorate of Civil Law was conferred on Professor Doe under the authority of the Ecclesiastical Licences Act 1533. This award was made in recognition of Norman’s unique contribution to the renaissance in the study of Canon Law. The establishment of the Cardiff degree has had an almost incalculable influence worldwide in setting the highest academic standards in the study of the subject, as have his many publications, notably the magisterial survey of The Legal Framework of the Church of England. I was also able to observe at close quarters Norman’s contribution to the Windsor Report and his search for a viable Anglican ius commune – a search which bore fruit in the production of another benchmark publication, The Principles of Canon Law Common to the Churches of the Anglican Communion. During a time of acute tension and doctrinal conflict in the Anglican family, Norman’s patient and skilful work was crucial in securing a vocabulary in which to discuss contentious issues and in holding together debates that threatened to descend into mutual non-communication. My own debt to him for all he did in those years for the Communion is hard to estimate; my gratitude is lasting.

Over the last quarter of a century, questions concerning Law and Religion have been asked with an increasing urgency, and many of the most serious and credible answers have come from Professor Doe and his circle. He has rejuvenated Anglican Canon Law not only as a subject for academic teaching and research but also as a practical tool for dialogue within both the Anglican tradition and the world of ecumenical relations. His impressive and prolific list of publications shows the extent of our debt to him for his scholarship at national and international level, including most recently Christian Law: Contemporary Principles. It is
quite simply the case that no one in the English-speaking world, perhaps
no one globally, has made such a contribution to our understanding of
the law of the Church in our lifetime.

Norman Doe’s contribution has extended to encompass not only the
study of comparative religious law but also the study of the relationship
between national and international laws and religion, as illustrated in his
work on Law and Religion in Europe. The Centre for Law and Religion,
which he founded and directs at Cardiff, has become a beacon of excel-
ence in the field, attracting scholars from around the world. The wide
range of contributors in this volume from among his colleagues, colla-
borators and former students shows the significance of Norman’s role as
mentor and guide to more than one generation of students in this area.

The relationship between law and religion in contemporary society is
increasingly complex and is often thought of as a minefield of risks and
misunderstandings. Certainly the issues are large ones; but Norman has
shown that sound scholarship and good legal sense can still provide a
path through difficult territory. Thinking about law is thinking about
how communities are ordered in a way that recognises shared dignity and
shared liberties; and this is a reminder that thinking about the law of
the Church is thinking about practical ecclesiology – how the life of the
Church recognises and nurtures the shared dignity and liberty of
the children of God. Canon Law cannot do without a robust theological
underpinning; which is why Norman has studied for an MTh in Oxford
in addition to all his other academic labours.

This volume rightly celebrates Professor Doe’s personal accomplish-
ments; but it also examines future directions for the study of Law and
Religion, particularly in an interdisciplinary framework. This builds on
initiatives already taken by Professor Doe whose work has always stressed
the importance of detailed legal analysis integrated with insights from
history, sociology and theology. This book is both a timely tribute to a
uniquely gifted scholar, and a substantial contribution to the important
discipline of Law and Religion; and I am delighted that someone who has
been a loved and trusted friend for so long is being honoured in this way.

Rowan Williams
Master, Magdalene College, Cambridge
It is now commonly accepted that the process of modernization has not led to the demise of religion. Across the academic spectrum, expressed in the vocabularies of theology, philosophy, sociology and political science, the focus of interest is on the resurgence of religion, which has brought with it the necessity to re-conceptualize the secular and to reconsider the centrality of religious beliefs, values and practices in the ethical formation of individuals and the cohesion of groups. The increasingly plural nature of contemporary societies sharpens the force of these issues, as witnessed in recent domestic debates, for example, those concerning the wearing of religious dress and the operation of religious courts.

There has been a significant increase of interest in religion from academic and practising lawyers. In some jurisdictions, such as continental Europe and the United States, aspects of Law and Religion have long been studied and taught but recent years have witnessed a significant change: the topic has become increasingly controversial and the focus has begun to spread to include the study of religious freedom as a human right and the internal laws of religious minorities. In other jurisdictions, such as the United Kingdom, Australia and South Africa, Law and Religion is becoming regarded as an academic subject for the first time, studied and researched like family law or employment law. In the United Kingdom, for example, Law and Religion has become a recognized sub-discipline in UK law schools and is now the focus of specialist journals and specific research centres and clusters such as the Ecclesiastical Law Society and the Law and Religion Scholars Network (LARSN) – an association set up for those who teach and research in the field – which now has almost 300 members.

This edited volume reflects upon the confluence of Law and Religion, paying particular attention to how it has developed an interdisciplinary trajectory. The book sets out to celebrate the work of Professor Norman Doe, who has been central to the development of Law and Religion in the United Kingdom and whose wide-ranging work has become an
inspiration around the globe. In 1991, Professor Doe established the LLM in Canon Law, the first degree course of its type in the United Kingdom since the Reformation. The course provided for the study of the laws of the Church of England and the Roman Catholic Church and led to a flurry of publications by Professor Doe and the course graduates. The success of the LLM in Canon Law led Professor Doe to establish the Centre for Law and Religion at Cardiff University in 1998, the first such centre in the United Kingdom. Under Doe’s leadership, the Cardiff Centre developed further initiatives such as the Colloquium of Anglican and Roman Catholic Canon Lawyers in 1999, an undergraduate law module on Law and Religion in 2000, the Interfaith Legal Advisers Network (ILAN) in 2007 and LARSN in 2008. Over the last twenty-five years, the study of Law and Religion at Cardiff has been shaped by Professor Doe’s ground-breaking research. It has grown, not only to examine, analyse and compare the laws of the Church of England and the Roman Catholic Church, but also to study the laws of Christian churches worldwide and the relationship between religion and the law in the wider sense, including the interaction between religion and State law. Cardiff scholars, led by Professor Doe, have developed an understanding that the study of Law and Religion requires at least the study of religion law (the external laws affecting religion formulated at national, international or sub-national levels of governance) and religious law (the internal laws, rules and norms formulated by religious groups by and for themselves).

This volume celebrates Professor Norman Doe’s achievements over the last twenty-five years, with the book sections being named after the four modules which form the LLM degree: Conceptual Foundations and Historical Development; Government and Ministry; Doctrine, Liturgy and Rites; and the Interface of Religious Law and Civil Law. This reflects the way in which, through Professor Doe’s teaching and writings doctrine, ministry, liturgy and rites are contextualized within a study of the historical roots and conceptual foundations that underpin their development. Canon law, therefore, provides a framework for interdisciplinary research into a range of key issues in the contemporary study of religion which includes: the nature of authority; the role of liturgy in shaping the moral imagination; the reception/rejection of doctrine; the need to interpret religious laws in light of the waning of metaphysical foundations; the re-conceptualization of the binaries: secular/sacred and public/private; and, more widely, the interaction between secular law and religious practice in areas such as human rights. The aim of this book,
therefore, in reflecting on the visionary nature of Professor Doe’s work, is to offer a multifaceted perspective on some of the most important contemporary questions which arise in the confluence of law and religion and to lay the groundwork for future research, showing the interdisciplinary trajectory of the subject under Professor Doe’s leadership.

As editors, we have worked together, not only from different geographical locations, but also from a variety of academic backgrounds: history, law, theology, philosophy and sociology. Thus, the interdisciplinarity which is espoused in the vision of the work as a whole has also been the working model throughout the entire editorial process. This has been enriching for each of us and has resulted in a final volume that will not only complement the scholarship and vision of Professor Doe but will be broad in its appeal for future generations of lawyers, theologians and scholars of religion.

Our first note of gratitude must go to all of the contributing authors, for the scholarship and originality of their chapters and for the enthusiasm with which each contributor replied affirmatively and so promptly to the original proposal of this Festschrift. If we may borrow from the vocabulary of music (a sphere which Professor Doe inhabits as smoothly as he does the world of Law and Religion), then we might say that, if the book as a whole is a symphonic poem, then, thanks to all the contributors, Norman is the Leitmotiv.

All four editors are from the Centre for Law and Religion at Cardiff University. Three of us are graduates of the LLM course itself while the fourth studied at Cardiff for both his first degree and his doctorate under Professor Doe’s supervision. All four of us teach the present generation of students. The Cardiff LLM attracts a wide range of students – barristers, solicitors, clergy from a fairly wide range of denominations, academics, relatively new graduates and those in mid- or late career – with the result that the ‘Cardiff experience’ is very much a product of the mix of students at any particular time. As well as being a tribute to Norman Doe, therefore, the publication of this volume gives us a welcome opportunity to thank our own teachers, who first inspired what has become a continuing interest (not to say obsession) for all four of us, and, just as important, to thank our students for listening to us, for arguing with us and, sometimes, for telling us when we have got things wrong.

We are also indebted to the administrative staff who have run and are running the LLM course, namely the past and present members of the Postgraduate Office at the Cardiff School for Law and Politics. We are also grateful to Professor Doe and our colleagues at the Centre for Law
and Religion as well as to the members of its various networks. Our thanks are also due to the staff of Cambridge University Press, especially to Finola O’Sullivan and Richard Woodham, whose enthusiasm for our initial proposal was followed up with practical advice and encouragement.

Finally, it is hoped that readers will be struck by the strength of the image on the cover of the book. It is taken from a work by Barbara Hepworth: Stringed Figure (Curlew) 1956. Permission to use this was kindly granted by the Tate Gallery, which owns the rights, and by the Hepworth Organization, where Sophie Bowness patiently explained the process of obtaining copyright and then waived the normal fee on account of the educational nature of our book. The choice of this particular Hepworth image seems apt. The lines, pulled taut from one part of the structure to another, appear quite different according to the angle from which they are viewed, much as it is with lines of recorded history when they are viewed by generation after generation. One might even say that it is not possible to see the same image twice. The frame in which the lines are set is asymmetrical and full of light. It is open to the imagination of the viewer to ‘complete the picture’; a musical instrument or a ship of fools, perhaps? Hepworth has left us with an image that signifies the centrality of interpretation in the search for truth. We hope that the confluence of law and religion may yield a similar insight.

Frank Cranmer, Mark Hill QC, Celia Kenny and Russell Sandberg
A consolidated bibliography of Professor Norman Doe’s publications demonstrates, first and foremost, his sheer industry: over one hundred thus far, including eight books of which he is sole or joint author, a further nine of which he is the sole or joint editor and more in preparation. But simple raw statistics can give no more than a very unfocused and partial view of any academic career – especially of a career at its height.

Norman began as a legal historian: his doctoral thesis at Cambridge was the foundation of his first major work, *Fundamental Authority in Late Medieval English Law*. In his earlier years as an academic lawyer English legal history was his main focus; and as he began to turn his attention to Law and Religion he continued his researches as a legal historian. Nor has he entirely forsaken his earlier field of study, as shown by his contributions to the *New Dictionary of National Biography* and, most recently, his chapter on Richard Hooker in the forthcoming study of *Great Christian Jurists in English History*.

Arising both from that earlier interest and from his lifelong membership of the Church in Wales, the major thrust of his research, as the bibliography demonstrates, became the Canon Law of that Church and of the Church of England in the first instance and, subsequently, the wider issues of Canon Law in the Anglican Communion, broadening into questions of Law and Religion more generally. As the bibliography also reveals, an important theme of his publications has been the Anglican Covenant and the potential for common principles of canon law to become an instrument for unity within the Communion. And one publication that does not appear in this bibliography is the *Windsor Report*.

in the drafting of which he was intimately involved and which resulted in the *Sunday Telegraph* including him in its Lambeth Power List\(^4\) at the time of the last Lambeth Conference in July 2008—no doubt to his total astonishment, given Norman’s modesty.

However, his output has ranged much more widely than purely Anglican concerns. Though roughly 40 per cent of his published work has been concerned almost entirely with Anglicanism, about one-tenth treats various aspects of legal history, about a quarter addresses issues of comparative ecclesiastical law – and, increasingly, inter-faith concerns – and the remainder delves into more general issues of the relationship between secular law and religious manifestation. And those proportions are probably symptomatic of the extent to which, over the last twenty years or so, both the Church of England and the wider Anglican Communion have been driven by dissent over issues such as sexuality and the ordination of women.

Looking back some twenty-five years on from the start of the LLM course at Cardiff, it is becoming difficult to remember how little worthwhile published work there once was, whether on Law and Religion generally or on canonical regulation specifically – at least in relation to non-Roman Catholic denominations. When I began the Cardiff course in 1998 I treated myself to a complete run of the *Ecclesiastical Law Journal* as basic reading material; otherwise, apart from journal articles and historical works on ecclesiastical law such as *Burn\(^5\)* and *Phillimore\(^6\)*, there were precisely six textbooks worth spending good money on: Mark Hill’s *Ecclesiastical Law* – the first edition of which had been published in 1995;\(^7\) Lynne Leeder’s *Ecclesiastical Law Handbook*;\(^8\) Rupert Bursell’s *Liturgy, Order and the Law*;\(^9\) the *Handbook for Church Wardens and Parochial Church Councillors* by Timothy Briden and Kenneth MacMorran;\(^10\) and, of course, *The Legal Framework of the

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Church of England and Canon Law in the Anglican Communion, both by Norman.

A simple name-search reveals a team of regular and occasional collaborators: most frequently Mark Hill QC and Russell Sandberg and, on occasion, Robert Ombres and myself. But a mere list of Norman’s publications can give very little indication of another of his major contributions to the field: that he has consistently encouraged his students to research areas hitherto unexplored and to publish their own work and has been extraordinarily generous in reading and commenting on the resulting drafts. Partly as a result of that, and partly as a result of his own prodigious output, the position of Law and Religion as a recognised sub-discipline within the wider field of academic law in the United Kingdom has been transformed, both in respect of the number of people involved in research and in the breadth and depth of their publications. One result of Norman’s encouragement of others is that researchers in Law and Religion are probably more various than, for example, specialists in criminal law or contract. That must be partly because it is inherently interdisciplinary, attracting the attention of clergy, historians and sociologists as well as of lawyers.

As to the future, it is positively dangerous to predict the likely path of an academic in full spate and at the height of his powers. However, as Mark Hill QC suggests in Chapter 1, the next development is likely to be in the direction of comparative religious law. The Centre for Law and Religion at Cardiff has already carried out a ground-breaking comparative study of religious divorce and religious tribunals;11 and, given the furore about the place of sharia ignited by Rowan Williams’ seminal (and much misunderstood) lecture in 2008,12 it is clearly an area in which further work is sorely needed. Given Norman’s achievement in identifying, describing and analysing the existence of ‘Christian Law’, the next logical step would be interfaith comparative work comparing principles of Christian Law with the laws of other faiths such as Judaism and Islam. It is also likely that future scholarship will be interdisciplinary in nature, developing further Norman’s interests and background in theology and history.

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