



The Tragedy of Religious Freedom

By Marc O. DeGirolami

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When it comes to questions of religion, legal scholars face a predicament. They often expect to resolve dilemmas according to general principles of equality, neutrality, or the separation of church and state. But such abstractions fail to do justice to the untidy welter of values at stake. Offering new views of how to understand and protect religious freedom in a democracy, *The Tragedy of Religious Freedom* challenges the idea that matters of law and religion should be referred to far-flung theories about the First Amendment. Examining a broad array of contemporary and more established Supreme Court rulings, Marc DeGirolami explains why conflicts implicating religious liberty are so emotionally fraught and deeply contested.

Twenty-first-century realities of pluralism have outrun how scholars think about religious freedom, DeGirolami asserts. Scholars have not been candid enough about the tragic nature of the conflicts over religious liberty—the clash of opposing interests and aspirations they entail, and the limits of human reason to resolve intractable differences. *The Tragedy of Religious Freedom* seeks to turn our attention from abstracted, absolute values to concrete, historical realities. Social history, characterized by the struggles of lawyers engaged in the details of irreducible conflicts, represents the most promising avenue to negotiate legal conflicts over religion. In this volume, DeGirolami offers an approach to understanding religious liberty that is neither rigidly systematic nor ad hoc, but a middle path grounded in a pluralistic and historically informed perspective.

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Editorial Review

Review

A sophisticated and thoughtful book, which offers fresh insights on a central question of religious liberty.
(Philip Hamburger, author of *Separation of Church and State*)

The Tragedy of Religious Freedom is a first-rate contribution to the law-and-religion conversation. This conversation--how to think about, and how to effectively protect in law, religious freedom in a constitutional democracy--is a lively and timely one, and **DeGirolami** is an impressive participant. (Richard W. Garnett, Notre Dame Law School)

DeGirolami's is a thoughtful and sophisticated meditation on the protean relationship between law and faith in a society committed to religious freedom. His intellectual and cultural influences are broad and rewarding; his style is rich and accessible; and his critique of both theoretical foundationalism and skepticism is profound and compelling. *The Tragedy of Religious Freedom* is an important book that will undoubtedly influence and enrich this discussion for years to come.

(Ian Bartrum *Journal of Church and State* 2013-09-01)

DeGirolami sharply criticizes the current state of legal theory regarding religious freedom in the U.S. and offers a solution he claims will cure many present ills. (M. D. Brewer *Choice* 2014-02-01)

One of the best recent books on constitutional law. (Adam J. White *Weekly Standard* 2014-05-07)

DeGirolami's *Tragedy* is perhaps the single best exposition of 'Burkean constitutionalism' in decades...It is the most nuanced, thoughtful, and effective explanation of 'Burkean' jurisprudence in a generation, and it deserves the widest possible audience. (Adam J. White *Commentary* 2014-09-01)

About the Author

Marc O. DeGirolami is Associate Professor of Law at St. John's University School of Law.

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