

and vital addition to the series, a truly significant review of scholarship and, as with the other volumes, serves as a springboard to further research.

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Religion in Scots Law

CALLUM G BROWN, THOMAS GREEN AND JANE MAIR

Humanist Society Scotland, Edinburgh, 2016, 355 pp (free download) URL: <https://www.humanism.scot/wp-content/uploads/2016/02/Religion-in-Scots-Law-Final-Report-22-Feb-16.pdf>

In February 2016, Humanist Society Scotland (HSS) published on its website *Religion in Scots Law: report of an audit at the University of Glasgow*, the results of research that it commissioned from three academics at Glasgow: Callum Brown, Professor of Late Modern European History, Thomas Green, Honorary Research Fellow at the Law School, and Jane Mair, Professor of Private Law.

So far as I am aware, this is the first systematic study of the position of religion and religious observance across the whole field of Scots secular law. Classics such as Taylor Innes' *The Law of Creeds in Scotland* (1867) and Cox's *Practice and Procedure in the Church of Scotland* (sixth edition 1976) have concentrated largely on the internal law of the Churches and, besides, are now largely of historical interest. You wait ages for a new study of the place of religion in Scots law and two come along at once ... but Marjory MacLean's 2009 work, *Legal Systems of Scottish Churches*, also looked primarily at ecclesiastical rather than secular law, while much of Frank Lyall's important book, *Church and State in Scotland: developing law*, which also appeared in 2016, is concerned with the complexities of the institutional history and legal status of the Scottish Churches (although it does include valuable chapters on education, personal relationships and the more general relations between religion and law which cover much of the same ground as the work under review).

Religion in Scots Law, however, concentrates on the interface between religion and secular law and looks only briefly at the internal structure and governance of the Church of Scotland, focusing primarily on its setting within the wider secular legal context. In doing so, the authors address the age-old issue of whether or not the Kirk is 'established' and suggest that, in essence, the question cannot be answered in English terms:

The enigma of the Church of Scotland may lie in the fact that it has been an historical hybrid of establishment and a rejection of establishment

embedded within an independent constitutional tradition itself conjoined into a hybrid with another constitutional tradition which emphasised the principle of the unlimited sovereignty of the State. (p 60)

The authors range across a wide range of legal issues and do so systematically and in great detail. There are three specific case studies: on the Kirk and the nature of establishment, on marriage and civil partnership, and on education – including schools, religious and moral education, teacher training and chaplaincy. Part III, ‘a general audit’, ranges over a wide field in some considerable detail: armed services law; blasphemy; broadcasting and communications; charity law; conscience and conscientious objection; criminal law and prisons; equality law; family law and adoption; immigration, asylum, refugees and extradition; oaths; religion or belief; the Sabbath in Scots law; and tax law. In doing so, it helpfully sets out much of the relevant statute law.

Religion in Scots Law is an extremely important contribution to the literature on the interrelationships and interactions between religion and secular law and no student of ‘the law of creeds in Scotland’ should be without it. However, book production is expensive, academic print runs are often tiny and Scotland is a small jurisdiction, so perhaps it is a sign of the times that I should find myself contributing a very brief review of a major piece of research available primarily on the Internet. At 355 A4 pages it is fairly unwieldy as an electronic document; and HSS kindly let me have one of their limited number of hard copies. Serious students of religion law in Scotland might usefully write to HSS and ask whether there are any hard copies left.

In conclusion, provided it is kept up to date, *Religion in Scots Law* is likely to become the standard work of reference on the subject. Might W Green/Sweet & Maxwell be persuaded to publish a future edition?

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Accommodating Muslims Under Common Law: A Comparative Analysis

SALIM FARRAR AND GHENA KRAYEM

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The authors of this volume are academics at the University of Sydney and practising Sunni Muslims. They examine the legal systems of four common law jurisdictions – Australia, Canada, the United Kingdom and the United States – in