

Introduction to the 2009 Editors' Symposium: *Isaiah Berlin, Value Pluralism, and the Law*

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The outstanding collection of articles and comments thereon that follows this Introduction constitutes the 2009 Editors' Symposium of the *San Diego Law Review*. The Editors' Symposium, an annual event, began with the 2004 Symposium, *What Is Legal Interpretation?*, which appeared in these pages in Volume 42.¹ It was followed in 2005 by the Symposium, *The Meaning of Marriage*;² in 2006 by the Symposium, *The Rights and Wrongs of Discrimination*;³ in 2007 by the Symposium, *Informational Privacy: Philosophical Foundations and Legal Implications*;⁴ and in 2008 by the Symposium, *National Borders and Immigration*.⁵ All six symposia were organized by the Institute for Law and Philosophy at the University of San Diego School of Law, and all consisted of papers and comments presented at the School of Law. The 2010 Editors' Symposium, *Freedom of Conscience: Stranger in a Secular Land*, will take place in

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1. Symposium, *What Is Legal Interpretation?*, 42 SAN DIEGO L. REV. 461 (2005).

2. Symposium, *The Meaning of Marriage*, 42 SAN DIEGO L. REV. 821 (2005).

3. Symposium, *The Rights and Wrongs of Discrimination*, 43 SAN DIEGO L. REV. 733 (2006).

4. Symposium, *Informational Privacy: Philosophical Foundations and Legal Implications*, 44 SAN DIEGO L. REV. 695 (2007).

5. Symposium, *National Borders and Immigration*, 45 SAN DIEGO L. REV. 863 (2008).

April 2010, with subsequent publication of its papers in Volume 47 of the *Law Review*.

It is a widely held view that value pluralism and liberalism—both as a political morality and as a set of legal institutions—go hand in glove. Modern liberalism largely owes its genesis to a very basic form of value pluralism, namely, that of multiple religions and the religious wars that were its product.

The twentieth-century British philosopher Isaiah Berlin was a defender of the proposition that basic values are plural, and thus that there are ultimate goods that can only be obtained by sacrificing other ultimate goods. For example, liberty cannot be reduced to equality, contra Ronald Dworkin,⁶ nor can equality be reduced to liberty, contra Robert Nozick.⁷ Berlin was also an opponent of the politics of monistic values, seeing in them the seeds of tyrannical totalitarianism.

But is Berlin right? Are there really plural ultimate values? And if he is, what, if anything, does this entail for our laws and legal institutions? If values are plural, is there anything wrong about a society's favoring one at the expense of the others? Or must space be left for the others to be pursued?

These are the questions our distinguished group of authors tackle in the pages that follow. As you will see, they disagree about Berlin's basic thesis and about its implications for law. But their back-and-forths should edify and inspire everyone who seeks to understand the basic presuppositions of liberal societies such as ours. We are honored by their contributions to the *San Diego Law Review*.

In seeking to make an annual Editors' Symposium a reality, the Institute and the *Law Review* have worked to build a permanent endowment sufficient to finance it. To that end, we have solicited—and shall continue to solicit—donations from all former editors of the *Law Review*. Those who have contributed to date are listed at the beginning of the issue. We are very, very grateful for your generosity and hope this product vindicates our seeking your support. Thank you.

6. See RONALD DWORKIN, SOVEREIGN VIRTUE: THE THEORY AND PRACTICE OF EQUALITY (2000).

7. See ROBERT NOZICK, ANARCHY, STATE, AND UTOPIA (1974).