

dingungen, was direkt zur Frage Kunst und/ohne Kontext führt: gibt es kontextfreie Kunst überhaupt?

Stephanie Maiwald ist eine bemerkenswerte und faktenreiche Arbeit zur zeitgenössischen Kunst Nigerias gelungen. Sie versucht nicht, eine Kunstgeschichte Nigerias zu schreiben – eine Aufgabe, die in absehbarer Zeit auf nigerianische Kolleg_innen zukommen wird. Das besondere an ihrer Überblicksarbeit ist, dass sie nicht überwiegend auf ausgewerteten Interviews, Gesprächsnotizen und Beobachtungen basiert, sondern ganz bewusst bislang wenig beachtete schriftliche Quellen und Statements intensiv auswertet. Denn seit langem sprechen nigerianische Intellektuelle und Künstler für sich selbst. Als sehr gelungen wird erachtet, dass die Autorin in den einzelnen Kapiteln die faktischen und theoretischen Aussagen mit dem Blick auf Künstler_innen, deren Œuvre und relevanten Äußerungen sehr anschaulich kontextualisiert. Ergänzend hätte man den Blick auf die nigerianische Exilkunst richten können. Sehr hilfreich erweist sich das umfangreiche Namensregister und die umfassende Literaturliste. Eine für die Kunstethnologie und Kunstgeschichte wichtige und sehr lesenswerte Arbeit; lediglich der Titel „Jenseits von Primitive Art“, irritiert anfänglich.

Andreas Volz

Mancini, Susanna, and Michel Rosenfeld (eds.): *Constitutional Secularism in an Age of Religious Revival*. Oxford: Oxford University Press, 2014. 349 pp. ISBN 978-0-19-966038-4. Price: \$ 98.50

“Constitutional Secularism in an Age of Religious Revival” is an important, interesting, and very stimulating book. “Secularism” and “constitutional secularism” recur frequently today not only in legal scholarship but particularly in the political and worldview discussions, concerning the relationship between the state, religion/church, and the public sphere, even if they remain as concepts notoriously slippery. Now anyone interested in constitutional secularism finds a chance to see how the idea functions in various domains and what makes the nature of the phenomenon itself. The monograph’s central theme originated from a project, initiated by an interdisciplinary group of scholars, mostly legal thinkers, from different countries and religious traditions under the auspices of the academic host of the Pascal Chair, Professor Helene Ruiz-Fabri of the University of Paris. Some papers have been presented earlier at a Colloquium on “Religion, the Constitution, and the State. Contemporary Controversies” at the Cardozo School of Law (2012).

It is, of course, impossible to discuss every article in the vast assortment of historical and systematic problems they describe and explain, touching on a wide spectrum of issues. One of the great aspects of the book is the wide range of seemingly heterogeneous legal phenomena on display. The contributors to this book, leading experts, are acting lawyers and academic teachers of law, coming from a variety of different disciplines including law, anthropology, history, philosophy, and political theory. They aim at providing a framework for an engaging discussion on constitutional secularism within the bounds of consti-

tutional democracy. The editors provide also a very helpful introduction in which the basic structure of constitutional secularism reasoning is spelled out and different approaches and focuses are noted.

The book is divided into five parts, each devoted to a different subject. The five contributions of the first part, “Theoretical Perspectives on the Conflicts between Secularism and Religion,” address a number of the most salient theoretical issues relating to the present-day conflicts between secularism and religion in the context of the revitalization, repoliticization, and deprivatization of religion, on the one hand, and mass (e-)migration of adherents of different religions and postmodern ways of thinking, on the other. Dieter Grimm discusses “Conflicts between General Laws and Religious Norms” (3–13) to state that religious freedom is on the losing side regardless of the importance of a religious requirement for the believer for whom the only alternative could be adaptation to the secular norm or emigration. Nadia Urbinati (*The Context of Secularism*; 14–32) starts with the question, what does a secular state need in order to be respectful of its citizens’ equal rights and evaluates the role of religion in the public sphere of today’s democratic societies (J. Rawls, J. Habermas). Her conclusion is: In matters that have a direct impact on the individual freedom of religion and social peace, such as the presence of religion in the public sphere, political theorists should pay close attention to the ethical and historical context of a given society instead of applying to it practical conclusions, that had been derived from an ideal conception of democratic societies as religious-pluralist *de facto* and *de iure* (16). Karl-Heinz Ladeur (*The Myth of the Neutral State and the Individualization of Religion*; 33–53) tackles, from the point of view of a legal scholar, the theoretical challenges posed by postmodernism and the incorporation of a large number of immigrants who are adherents to a religion that is seemingly at serious odds with the already integrated religions and culture of the country of immigration. Andrés Sajó (*Preliminaries to a Concept of Constitutional Secularism*; 54–79) asks how to confront the theoretical challenges posed by a search for the discovery or preservation of common judicial standards suited to harmonization of several dozens of national jurisprudences operating under different versions of the five constitutional models for dealing with the relation between the state and religion. He reviews some inherent difficulties surrounding the concept of constitutional secularism and identifies some core values and common practices underlying it. Michel Rosenfeld (*Recasting Secularism as One Conception of the Good among Many in a Post-Secular Constitutional Polity*; 79–108) explores the case for secularism (“ideological secularism”) as one of many conceptions of the good in a post-secular constitutional, liberal state. He sees secularism as providing the best way of life, as far as he or she is concerned. He states, for instance: in this sense, secularism is no different than a religion as perceived by a believer who is convinced of its truth (80).

Part II, “Religion, Secularism, and the Public Square,” focuses on the conceptual and spatial boundaries between secularism and religion erected by liberal theory and on

the current controversies and divisions among secularism and religion as well as among proponents of different religions. Susanna Mancini (The Tempting of Europe, the Political Seduction of the Cross; 111–135) analyzes legal and political responses to the growing presence of Islam in Europe through the lens of Carl Schmitt's (1888–1985) thoughts. She shows that legal and political responses to "cultural clashes" generated by the presence of Islam in Europe often follow a Schmittian logic, and that echoes of the Schmittian anti-Semitic logic are clearly perceivable in the way European democracies address cultural and religious conflicts that arise in their increasingly pluralistic polities. Pierre Birnbaum (On the Secularization of the Public Square. Jews in France and in the United States; 136–145) offers a historical and sociological perspective on the role of Jews in building a secular public sphere in France and in the United States. He concludes that, in spite of the different models/strategies for managing church-state relations in these two countries and to dismantle the trappings of Christian dominance, Jews were able to promote a secular conception of the public realm, without abandoning their cultural and religious specificities. Michel Troper (Sovereignty and Laïcité; 146–159) argues that from the standpoint of constitutional logic the fact, that Egypt under Mursi was ruled by the Sharia, and France is governed by the principles of freedom of religion and religious neutrality of the state, does not affect in either case the power of state over religion and cites according to the adage that makes evident the core of state sovereignty: *auctoritas non veritas facit jus*. Lama Abu-Odeh (Egypt's New Constitution. The Islamist Difference; 160–174) focuses on the conflict among various political actors concerning the proper constitutional role of religion in Egypt after the overthrow of Mubarak in 2011. He demonstrates how the word "secularism," as an expression of the "proper" relationship between church and state, was successfully turned by the Islamists into such a dirty word that everyone was bending over backwards to deny the allegation that they might be adherents of this view. Ran Hirschl and Ayelet Shachar (The Constitutional Boundaries of Religious Accommodation; 175–191) analyze the responses to two different sets of claims for religious accommodation in South Africa and Canada, one accepting the ultimate authority and supremacy of the constitutional order and the other one insulating from the purview of the state's constitutional ordering in order to allow for full adherence to alternative, sacred sources of authority and identity. The authors put into focus the courts and legislatures in accommodation-friendly societies that now find themselves embroiled in the search for responses to the post-secularist spread of alternative sources of law and meaning.

Part III, "Religion, Secularism, and Women's Equality," consists of three chapters that account for the difficulty, complexity, and diversity of the issues, and the controversy over them – characterizing them from different perspectives – and describing the interplay between religion and women's equality in the context of constitutional secularism. Patrick Weil (Headscarf versus Burqa. Two French Bans with Different Meanings; 195–215) de-

scribes the case of France, prohibiting women to cover faces in public places. This law evoked liberal academia's condemnation as "religion-blind." In Weil's view these critics fell short of understanding French *laïcité* which in his view is a liberal legal regime where the status of religion is better protected than other human rights by the law of 1905. France seems to have been very successful in building a liberal interaction between individuals raised in different faiths or beliefs. John Borneman (Veiling and Women's Intelligibility; 216–227) notices that the veil is worn not only by Muslims, but also, e.g., by Christian nuns and certain Orthodox Jewish women, and its meaning differs from one religious tradition to another and from one culture to the next. The focus of the article is quite narrow: it analyzes one symbol or practice – the veil or veiling – that has been invested with great value by both constitutional and religious authorities. It hopes to make clear the nature of cultural conflicts around this symbol, and the place of the registers of law and religion in current conflicts about the shape of public spheres. The author mentions three plausible, but according to him ultimately misleading assumptions that do not take into account what goes on at a less conscious and rationalized level before the symbols and their representations are understood as public problems: the pluralism and religious diversity, the larger role played by religion today in the public sphere, which leads to a blurring of the distinction between public and private spheres, and the "dictates of reason" of the Enlightenment project. Daphne Barak-Erez in "Reproductive Rights in a Jewish and Democratic State" (228–244) centers, as the titles says, on women's reproductive rights: abortion and assisted procreation in Israel. In part 1, the author explains the unique nature of Israel as a modern liberal democratic state that also defines itself as Jewish, in part 2 she addresses the main religious and cultural factors that shape the regulation of reproduction and family in Israel; in part 3 she discusses the Israeli abortion law; in part 4 she elaborates the regulation of *in vitro* fertilization and surrogacy procedures, and in the conclusion she refers to the tensions and complexities between the Jewish precepts derived from religion and the will to satisfy women's equality concerns.

The three chapters of part IV, "Religious Perspectives and the Liberal State," complementing one another, address the complex interrelationship between secularism and religion, respectively, from the standpoint of Christianity, Judaism, and Islam. Gustavo Zagrebelsky (One among Many? The Catholic Church Between Universalism and Pluralism; 247–268) concentrates on Christianity's "external" impact on the world beyond Christianity and its efforts to blur the divide between Faith and Reason, and to show the universal applicability of Catholicism and its universal values to all societies, secular and not. The author tries to show how the Catholic Church replaces the binary of truth-faith – which separates the church from those who do not have the same faith – with the binary of truth-reason – which necessarily embraces all human beings who are "reasonable, beyond their particular faiths." Gideon Sapir and Daniel Statman (Religious Marriage in a Liberal State; 269–282) explore the

imposition of Judaism on secular Jews in Israel under the aspect of the marital law that this presumably liberal democracy grants (determines?) to religious marriage (the problem of the states neutrality) when a Jew is not allowed to marry a non-Jew. They see quite a lot of possibilities as an answer to the question what exactly is meant by saying that some particular marriage arrangement is “religious”. Andrew F. March (*Are Secularism and Neutrality Attractive to Religious Minorities? Islamic Discussions of Western Secularism in the “Jurisprudence of Muslim Minorities” [Fiqh Al-Aqalliyyat] Discourse; 283–307*) provides a perspective of an “outsider” religion in politics where other religions or secularism predominate and, e.g., Islamic law cannot be generally applied. Within the framework of traditional Islamic legal and ethico-political doctrines the article starts with a series of questions concerning the permissibility for Muslims who are members of a minority religion in secular liberal democracies to collaborate with the non-Muslim state authorities or the largely non-Muslim civil society. Especially, as the call for secularism among Muslims is equated to atheism and considered a rejection of Islam and clear apostasy.

Part V deals with “The Confrontation between Secularism and Religion in Specific Contexts. Education and Free Speech.” The first article by Gila Stopler (*The Ultra-Orthodox Community in Israel and the Right to an Exclusively Religious Education; 311–325*) concerns the area of religion and education, the last being of equal value to state and religion. The author’s main field of interest is the education in schools run by the Ultra-Orthodox Jewish (“Haredi” community – UO) community. She provides a critical comparison between the Israeli approach to religious education and the regulation of such education in liberal democracies and such states as Malaysia, an Islamic federation. On the one side is the right of parents to educate their children according to their own beliefs, on the other side is the state’s authority in educational matters. How to protect the rights and interests of both? The analysis proceeds in two stages: a brief description of the UO community and its unique position in Israeli’s polity, and a comparative analysis of the autonomy granted to religious education in some liberal countries, and in the second stage showing the shortcomings of the present solution in Israel. Israel appears as a singular hybrid among the presumably democratic states, whose legal system combines certain liberal protections of human rights with an establishment of religion, and especially of the Orthodox Jewish religion. Robert Post (*Religion and Freedom of Speech. Portraits of Muhammad; 326–342*) describes the conflict between free speech rights and freedom of religion rights. How the law ought to respond to blasphemes violating seemingly the demands of religious sanctity saving the freedom of speech necessary to serve the function of democratic legitimation. The author sees an obvious and immediate contradiction between keeping public discourse open to all opinions and excluding from public discourse those who would deny what a particular religion regards as sacred and remarks, that not all that is legally permitted is ethically advisable. There still remains the question

where to draw the line between protected expression and hate speech.

One wonders whether it really makes sense to publish together articles, which have been presented at conferences earlier. Here we get a fascinating book on the constitutional secularism, which can serve as an excellent introduction to the vast field and problems of secularism. It articulates principles that enable secular governments to separate church and state, at the same time fully respecting the behavior of religious citizens. The richness of the treated topics is overwhelming. Even if the authors do not find and give definitive answers to the stated questions, they show the complications, which make the relation of a (liberal) democratic state and religion in the public sphere so difficult. Not only do we learn a lot about the contemporary situation of secularism in liberal democracies – “in the age of religious revival” and repoliticization and deprivatization of religion – but also about its history and philosophical as well ideological founding. We find out about the different ways, theoretical (ideological, political, religious) and practical (to construe the social reality called state and form the public sphere) advantages and detriments of the long process since Enlightenment to separate the state from religion (faith) and about the traditional models of constitutional secularism, guaranteed by the states constitutions in today’s world. The book is highly original with a thought-provoking contribution to a literature. It could and would be a required reading for any interested in constitutional secularization.

The book is full of detailed, historical facts, topics, figures, themes, and sophisticated, good founded argumentation. It makes evident that not secularism is today the main problem but the more important religious pluralism and the official policy of multiculturalism. We see how many constitutional systems avoid arriving at unequivocal answers to the question of church-state or religion-state relations and secularism remains fragmented even in the most secularist constitutional systems (Sajó, p. 63). Secularism is not monolithic. There is the atheistic secularism of Nazism and Fascism, the militant secularism of Stalinism, the French secularism of laïcité that has been seen as downright hostile to religion and the secularism of the United States that recognizes the role religion plays in society and even sees religion as an elementary human urge. It seems compatible with different philosophical approaches: monism, pluralism, and relativism, and different conceptions of society: liberalism, republicanism, and communitarianism (Rosenfeld, p. 82).

Used in this book as a descriptive notion, the term “secularism” does not denote a position regarding the truth of religion or the proper place of religion in society, it is also not a form of atheism or secular humanism (Sajó, p. 56), but only points to ways to arrange legally the state-religion/church relations and to resolve religious conflicts. None of the authors attempts to give an analytic (lexical) or stipulative definition of constitutional secularism, situated within an adequate theory of secularism, because such a complete theory does not exist. Placed in its proper historical context, the concept of “secularism” or “the secular” evokes different sets of connotations: it is “an in-

stitutional arrangement,” “a doctrine of state,” “a constitutional theory about the presuppositions or foundations of contemporary constitutional order,” a depoliticization of religion, separation of *sacrum et profanum*, or a secular humanism, a form of atheism, and “a rejection of God’s guidance” (Muslims). “‘Secularism’ remains today a contested concept both in the context of philosophy or ideology and in that of constitutional law” (Rosenfeld, p. 81). The repoliticization of religion caused a political and institutional struggle against secular constitutionalism, and lead to an assault – principally by Islamist and Christian fundamentalists – on the very legitimacy and viability of the concept itself. It is being criticized as empty, fuzzy, with obscure meaning, a convenient façade, or even illegitimate. Strange enough, the constitutional status of secularism also remains uncertain, as it does not stand among constitutional values, even if certain elements of it are stated in law as certainties (Sajó, p. 67). Many constitutional systems do not take a clear and consistent position on the question of church-state or religion-state relations. “On the one hand, constitutional secularism [is being seen and] has been attacked as inherently hostile rather than neutral toward religion; and, on the other hand, ... [it] has been criticized as inevitably favoring one religion (or set of religions) over others” (xvi). Both, Islam and Judaism, accuse secularism as being insensitive to religion, and to religious needs of believers. This situation allows Sajó (56) to finish his considerations on the concept of constitutional secularism as follows: “Secularism is a somewhat unfortunate term for use in constitutional theory. It is overloaded – it refers to different, albeit interrelated, concepts in different languages and according to different disciplines.”

Andrzej Bronk

Marschall, Wolfgang, und Markus Wäfler: Felsmalereien Indonesiens. Band 1: Pulau Muna. Borsdorf: edition winterwork, 2012. 216 pp. ISBN 978-3-86468-312-1. Preis: € 39,90

Marschall, Wolfgang, und Markus Wäfler: Felsmalereien Indonesiens. Band 2: Teluk, Berau. Borsdorf: edition winterwork, 2013. 344 pp. ISBN 978-3-86468-541-5. Preis: € 49,90

First reports on rock paintings in Indonesia began in the late 19th century and continue to be discovered today. Southeast Asian rock art first appeared in Paleolithic times, and the designs, rendered in charcoal or in pigments ranging from yellow, red to dark brown have always held a striking visual power. Yet they are rarely studied because they are often hard to reach. The volumes by Marschall and Wäfler are a detailed record of rock art sites that have previously been mentioned in literature, but never fully documented, a role that these books fill.

The first two books form only half of a four-volume compendium on rock paintings of the islands of Borneo, Timor, the Moluccas, Sulawesi where the smaller island of Muna is situated, and Irian Jaya including the Bay of Berau. The third volume will deal with Kaimana and the Key Island and the last one will round up the documentation with a motif catalogue and interpretations. The work

of the Swiss archaeologists is groundbreaking in its showing how the rock art of Indonesia should be presented, furnished with color images and site descriptions, and as such it provides the first comprehensive overview of the archaeological discoveries of this genre during the past two hundred years. The books are, therefore, a most useful reference for the rock art of island Southeast Asia and for comparisons for other rock art sites that will be discovered in the future. It is also important to record this heritage before it vanishes due to natural or human impact. These heritage sites should be safeguarded and documented within the national heritage inventory, and a detailed recording of the rock art helps greatly in this regard.

We appreciate the consideration of recording and dating methodologies explained by the authors, especially on the fact that photographic recordings are not fully accurate as variances in the surface cause distortions, as well as accessibility problems posed by some sites. This may explain some of the inconsistencies with the scales and the complete absence thereof in some instances. It would have been useful to know the kinds of digital photographic enhancement used as well as the technical data of the equipment used such as models and focal lengths; this may help in future work to correct distortions inherent in the camera sensors and the lenses.

The authors cover a wide array of sites and draw upon research that is not widely accessible. While the book is entitled the “Rock Art of Indonesia,” its scope is even wider and also describes rock art sites from Bornean Malaysia and East Timor. It may be misleading to regard these volumes as a comprehensive survey and description of rock art in Indonesia and the authors do not make explicit their criteria for site selection. The volumes are devoted purely on rock painting sites, but not rock engravings, which are also a form of rock art and where more than a few examples exist in Indonesia. Elsewhere, one of us has argued that megalithic sites – of which Indonesia has many, some of them engraved and painted – could also be considered as rock art since they are a form of landscape marking. This discussion on the selection criteria is, therefore, lacking.

This question of comprehensiveness and site selection bears directly to their observation on distinctions between the rock art of the islands of Timor, Misool, Papua, and Kei Kecil in the “east” and the islands of Borneo, Sulawesi and Muna in the “west.” The differences observed referring to the topography and their potential to allow permanent settlements, the iconography, and painting techniques are striking and mark out potential areas of future research. In the western islands, paintings are frequently found at inland cave sites and rock shelter which are even raised high above steep rocks and difficult to reach by footpaths. Permanent settlements are not likely to be found here. In the eastern islands the rock art marks cliffs or rock galleries, facing the sea and accessible by boat where the maritime resources allowed permanent settlements in the bays. The repertoire of the motives in the “west” which are most frequently drawn with a brush includes variously acting humans, mammals, and boat scenes contrasted to motifs in the “east” which are