

## **James G. Dwyer**

Arthur B. Hanson Professor of Law  
Marshall-Wythe School of Law  
College of William & Mary

### **EDUCATION**

Stanford University           **Ph.D.**, Moral and Political Philosophy 1995  
Yale Law School               **J.D.**, 1987  
Boston College                 **B.A.**, Philosophy 1984

### **COURSES**

Family Law, Youth Law, Law & Social Justice, Trusts & Estates

### **PUBLICATIONS**

#### **MONOGRAPHS**

OXFORD HANDBOOK OF CHILDREN AND THE LAW (editor)  
(Oxford University Press, forthcoming 2019).

HOMESCHOOLING: HISTORICAL AND PHILOSOPHICAL PERSPECTIVES  
(University of Chicago Press, forthcoming 2019) (co-authored).

LIBERAL CHILD WELFARE POLICY AND ITS DESTRUCTION OF BLACK LIVES (Routledge, 2018).

MORAL STATUS AND HUMAN LIFE: THE CASE FOR CHILDREN'S SUPERIORITY  
(Cambridge University Press, 2011).

THE RELATIONSHIP RIGHTS OF CHILDREN (Cambridge University Press, 2006).

VOUCHERS WITHIN REASON: A CHILD-CENTERED APPROACH TO EDUCATION REFORM  
(Cornell University Press, 2002).

RELIGIOUS SCHOOLS V. CHILDREN'S RIGHTS (Cornell University Press, 1998)  
(paperback edition with new Preface 2001).

## COURSEBOOKS

FAMILY LAW: A MULTI-DISCIPLINARY APPROACH (KAMSET 2018).

VIRGINIA WILLS, TRUSTS, & ESTATES: CODE, CASES, COMMENTARY (KAMSET 2017).

LAW & SOCIAL JUSTICE: A READER (KAMSET 2017).

FAMILY LAW: THEORETICAL, COMPARATIVE, AND SOCIAL SCIENCE PERSPECTIVES (Aspen 2012).

## UNSOLICITED ARTICLES

*Generalizing Parental Rights* (under submission)

*Same-Sex Cynicism and the Self-Defeating Pursuit of Social Acceptance Through Litigation*,  
68 SOUTHERN METHODIST UNIVERSITY LAW REVIEW 1 (2015).

*Jailing Black Babies*, 2014 UTAH LAW REVIEW 465 (2014).

*Inter-Country Adoption and the Special Rights Fallacy*,  
35 UNIVERSITY OF PENNSYLVANIA JOURNAL OF INTERNATIONAL LAW 189 (2014).

*Promising Protection: 911 Call Records as Foundation for Family Violence Intervention*,  
102 KENTUCKY LAW JOURNAL 49 (2014) (co-authored).

*Parents' Self-Determination and Children's Custody: A New Analytical Framework for State Structuring of Children's Family Life*, 54 ARIZONA LAW REVIEW 79 (2012).

*No Place For Children: Addressing Urban Blight and its Impact on Children Through Child Protection Law, Domestic Relations Law, and "Adult-only" Residential Zoning*,  
62 ALABAMA LAW REVIEW 887 (2011).

*A Constitutional Birthright: The State, Parentage, and Newborn Persons*,  
56 U.C.L.A. LAW REVIEW 755 (2009).

*The Child Protection Pretense: States' Continued Consignment of Newborn Babies to Unfit Parents*, 93 MINNESOTA LAW REVIEW 407 (2008).

*The Children We Abandon: Religious Exemptions to Child Welfare and Education Laws as Denials of Equal Protection to Children of Religious Objectors*,  
74 NORTH CAROLINA LAW REVIEW 1321 (1996).

*Parents' Religion and Children's Welfare: Debunking the Doctrine of Parents' Rights*,  
82 CALIFORNIA LAW REVIEW 1371 (1994).

## SOLICITED ARTICLES AND BOOK CHAPTERS

“Regulating Child Rearing in a Culturally Diverse Society,” in Elizabeth Brake and Lucinda Ferguson, eds., *PHILOSOPHICAL FOUNDATIONS OF CHILDREN’S AND FAMILY LAW* (Oxford University Press 2018): 273-92.

“The Easiest Accommodation: Abandoning Other People’s Children to Their Parents’ Religious Views,” in Robin Fretwell Wilson, ed., *THE CONTESTED PLACE OF RELIGION IN FAMILY LAW* (Cambridge University Press 2018): 193-217.

*Religious Schooling and Homeschooling Before and After Hobby Lobby*, 2016 U. Ill. L. Rev. 1393.

*A Child-Centered View of Foster Parenting by Same-Sex Couples*. JURIST (Dec. 2015).

“Diagnosing and Dispelling Denialism Regarding Children,” in Jan Willems, Hans Nelen and Roland Moerland, eds., *DENIALISM AND HUMAN RIGHTS* (Intersentia 2015).

*The Ever-Shrinking Case for a Constitutional Right to Same-Sex Marriage*, JURIST (Feb. 2014).

“Moral Foundation of Children’s Relational Rights,” in Robert George and John Eekelaar, eds., *ROUTLEDGE HANDBOOK OF FAMILY LAW AND POLICY* (2013).

*Adoptive Couple v. Baby Girl: Erasing the Last Vestiges of Human Property*, 93 B. U. L. REV. ANNEX 51 (2013).

*Misused Concepts and Misguided Questions: Fundamental Confusions in Family Law Debates*, INTERNATIONAL JOURNAL OF THE JURISPRUDENCE OF THE FAMILY (2013) (peer reviewed).

*Who Decides?* in Colin Macleod and Alexander Bagattini, eds., *THE NATURE OF CHILDREN’S WELL-BEING: THEORY AND PRACTICE* (Springer, 2013)

*Equality Between Adults and Children: Its Meaning, Implications, and Opposition*, 2013 MICHIGAN STATE LAW REVIEW 1007.

*No Accounting for School Vouchers*, 48 WAKE FOREST LAW REVIEW 361 (2013).

*The Parental Choice Fallacy in Education Reform Debates*, 87 NOTRE DAME L. REV. 1837 (2012).

*The Good, the Bad, and the Ugly of Employment Division v. Smith for Family Law*, 32 CARDOZO LAW REVIEW 1781 (2011).

*Parental Entitlement and Corporal Punishment*, 73 LAW & CONTEMPORARY PROBLEMS 189 (2010).

*First Parents: Reconceptualizing Newborn Adoption*, 37 CAPITAL U. LAW REVIEW 293 (2009).

*Children's Education Rights in a Liberal Democracy*, in PADAGOGISCHE MODERNISIERUNG: SAKULARITAT UND SAKRALITAT IN DER MODERNEN PADOGIGIK (Hoffmann, Jacottet, & Osterwalder eds., Haupt Bern 2006).

*A Child-Centered Approach to Parentage Law*,  
14 WM. & MARY BILL OF RIGHTS JOURNAL 843 (2006).

*The Liberal State's Response to Religious Visions of Education*, 44 THE JOURNAL OF CATHOLIC LEGAL STUDIES 195-231 (2005) (response to commentaries on my work).

*School Accountability and "High Stakes Testing,"* 2 THEORY & RESEARCH IN EDUC. 211 (2004).

*Children's Rights*, in THE BLACKWELL COMPANION TO THE PHILOSOPHY OF EDUCATION (2003).

*A Taxonomy of Children's Existing Rights in State Decision Making About Their Relationships*, 11 WILLIAM & MARY BILL OF RIGHTS JOURNAL 845 (2003).

*Funding Religion in a Post-Zelman World*, 5(1) GOVERNMENT, LAW & POLICY JOURNAL 11 (2003).

*Changing the Conversation About Children's Education*, in NOMOS XLIII: MORAL AND POLITICAL EDUCATION (New York University Press, 2002).

*Review of ARISTOTLE ON THE NECESSITY OF PUBLIC EDUCATION*, by Randall Curren, 13 THE SCHOOL FIELD 7 (2002).

*School Vouchers: Inviting the Public Into the Religious Square*,  
42 WILLIAM & MARY LAW REVIEW 963 (2001).

*Spiritual Treatment Exemptions to Child Medical Neglect Laws: What We Outsiders Should Think*,  
76 NOTRE DAME LAW REVIEW 147 (Nov. 2000).

*Informed Consent for Neonatal Circumcision: An Ethical and Legal Conundrum*, 17 JOURNAL OF CONTEMPORARY HEALTH LAW & POLICY 61 (2000) (co-authored).

*Children's Interests in a Family Context – A Cautionary Note*,  
39 SANTA CLARA LAW REVIEW 1053 (1999).

*Setting Standards for Parenting -- By What Right?*,  
27 CHILD PSYCHIATRY & HUMAN DEVELOPMENT 165 (1997).

## **WORKS IN PROGRESS**

BOOK, GLOBAL PERSONHOOD: THEORETICAL FOUNDATIONS FOR AN INTERNATIONAL LAW OF CHILDREN'S MIGRATION RIGHTS.

Article, *How Children Belie the Will Theory of Rights*

Article, *Deporting Citizens: ICWA's Labeling and Expulsion of Children*

## **PRESENTATIONS AND HONORS**

HARVARD LAW SCHOOL, Art of Social Change course, February 2019.  
Guest Lecture: "Reckoning With Homeschooling."

AMERICAN ENTERPRISE INSTITUTE, Public Address: "Child welfare and poverty in America: How welfare policies have created an intergenerational cycle of poverty," Program highlighting my new book on liberal child welfare policies, Washington, D.C., September 2018.

COLLEGE OF WILLIAM & MARY, Plumeri Award for Faculty Excellence 2018-19

LAW & SOCIETY ASSOCIATION, Annual Meeting, "Imprisoning Black Babies: Liberal Child Welfare Policy's Role in Perpetuating the Cradle to Prison Pipeline," Toronto, June 2018.

CRTV, *Michelle Malkin Investigates*, Televised interview for program "Homeschool Rebellion," September 2017.

WORLD CONGRESS ON FAMILY LAW AND CHILDREN'S RIGHTS, Triennial Meeting. Presentation: "The Role of Race When Interests of Parents and Children Conflict," Dublin, June 2017.

AMERICAN PHILOSOPHICAL ASSOCIATION, Eastern Division, Annual Meeting. January 2016.  
Presentation: "The History and Philosophy of Homeschooling."

UNIVERSITY OF ILLINOIS COLLEGE OF LAW, conference on "Law, Religion and the Family Unit After *Hobby Lobby*." September 2015. Presentation: "Religious Schooling After *Hobby Lobby*"

RADZYNER LAW SCHOOL AND BAR-ILAN UNIVERSITY, ISRAEL, keynote and panel presentations at co-hosted conference honoring my scholarship: "Children's Rights in Relation to Parent's Rights." May 2015.

WILLIAM & MARY BILL OF RIGHTS INSTITUTE, Organizer and Presenter, Conference on "The Liberal Dilemma in Child Welfare Reform," March 2015.

REGENT UNIVERSITY, Conference on "Human Rights and the Sexualization of Culture."  
Presentation: "Protecting Young Persons From Being Treated Like Property" February 2015.

WILLIAM & MARY SCHOOL OF LAW, TUCKER LECTURE: “The Special Rights Fallacy.” Feb. 2015.

UNIVERSITY OF MAASTRICHT, Conference on “Denialism and Human Rights.” January 2015.  
Keynote Address: “Speaking Truth With and For Children”

AALS ANNUAL MEETING, SECTION ON CHILDREN AND THE LAW, Panel presentation: “The Inter-generational Cycle of Thwarted Lives in America’s Worst Neighborhoods,”  
Washington, D.C., January 2015.

CHAIR, AALS SECTION ON CHILDREN AND THE LAW, 2015.

NPR, HEARSAY PROGRAM, Interviewed re federal court invalidating Va. marriage law. May 2014.

COLLEGE OF WILLIAM & MARY, Plumeri Award for Faculty Excellence 2014-15

HARVARD LAW SCHOOL, Child Advocacy Program, October 2013.  
Guest Lecture: “Family Drug Court Skepticism.”

LONDON METROPOLITAN UNIVERSITY, CENTER FOR FAMILY LAW AND PRACTICE, Conference on  
*Parentage, Equality, and Gender*. Presentation: “Imprisoning Babies.” London, July 2013.

INTERNATIONAL ACADEMY FOR THE STUDY OF THE JURISPRUDENCE OF THE FAMILY, Annual Meeting.  
“Regulation of Parent-Child Relationships: Unavoidable and Fiduciary.” June 2013.

INTERNATIONAL SOCIETY OF FAMILY LAW, Annual Regional Meeting, Brooklyn, NY. June 2013.  
Presentation: “Child Protection Intervention as a Strategy for Reducing Partner Violence”

HLN NETWORK (television), “Raising America” program. Debated prison nurseries. June 2013.

CANADIAN BROADCAST CORPORATION RADIO ONE, “The Current” program. Interviewed on topic of  
prison nurseries. May 2013.

MIDWEST POLITICAL SCIENCE ASSOCIATION, Annual Meeting, Chicago, IL. April 2013.  
Presentation: “Liberals' Responsibility for Race Hierarchy in America”

MICHIGAN STATE UNIVERSITY SCHOOL OF LAW, Conference on *Equality in Family Law*,  
Presentation: “Equality Between Adults and Children.” April 2013.

UNIVERSITY OF CALIFORNIA AT BERKELEY, Program on Journalism for Social Change, guest lecture.  
March 2013.

UNIVERSITY OF SOUTHERN CALIFORNIA, Journalism for Social Change, guest lecture. Feb. 2013.

AALS ANNUAL MEETING, SECTION ON FAMILY LAW, New Orleans. January 2013.  
Panel presentation: “Incarcerated Parents: A Comparative and Human Rights Assessment  
of Programs to Bring Children Into Prisons.”

AALS ANNUAL MEETING, SECTION ON CHILDREN AND THE LAW, New Orleans. January 2013.  
Panel presentation: “International Adoption and the Special Rights Fallacy.”

WAKE FOREST UNIVERSITY SCHOOL OF LAW, Symposium on *Privatizing the Public Good: Emerging Trends in K-16 Education*, talk entitled “No Accounting for School Vouchers”

INTERNATIONAL SOCIETY OF FAMILY LAW, Annual Meeting, June 2012  
“Global Personhood: Theoretical Foundation for an International Law of Child Protection”

MIDWEST REGION FAMILY LAW CONFERENCE, University of Iowa School of Law, June 2012.  
“Jailing Black Babies”

COLONIAL WILLIAMSBURG, Electronic Field Trip: “The Rights of Youth”, April 2012

NOTRE DAME SCHOOL OF LAW, *Educational Innovation and the Law symposium*, November 2011  
“Regulatory, Market, and Ethical Limitations on Parental Choice as a Strategy for Promoting Educational Innovation”

COLLEGE OF WILLIAM & MARY, Plumeri Award for Faculty Excellence 2010-11

MIDWEST REGIONAL CHILDREN’S ADVOCACY CENTER, National Education & Training Program,  
“Child Homicide: Where Faith is the Answer,” December 2010

CARDOZO LAW SCHOOL, 20<sup>th</sup> Anniversary of *Employment Division v. Smith*, October 2010  
“The Good, the Bad, and the Ugly of *Employment Division v. Smith* for Family Law”

WILLIAM & MARY SCHOOL OF LAW, Family/Child Law Junior Faculty Workshop, July 2010  
Organizer and commenter.

COLONIAL WILLIAMSBURG, Electronic Field Trip: “The Rights of Youth”, February 2010

WILLIAM & MARY INSTITUTE OF BILL OF RIGHTS LAW, November 2009  
Symposium on *Families, Fundamentalism, & the First Amendment*. Presentation entitled:  
“Zones of Ideological Influence.”

HARVARD LAW SCHOOL, Child Advocacy Program, October 2009  
“Art of Social Change: Child Welfare, Education, and Juvenile Justice”  
Class presentation on “Pros and Cons of Expanding Children’s Constitutional Rights”

UNIVERSITY OF VIRGINIA SCHOOL OF LAW, “What Is Parenthood?” Conference commentator, Apr/08

COLLEGE OF WILLIAM & MARY, DEPARTMENT OF PHILOSOPHY, Biennial Colloquium in Philosophy:  
“The Study of the Human Self,” Commentator, September 2008

SEALS, Annual Meeting, West Palm Beach, FL, July 2008. “How to Write Books”

WELLS CONFERENCE ON ADOPTION LAW, Capital University Law School, March 2008  
“Why Unfit Birth Parents Have No Right to Be Made Legal Parents”

UNIVERSITY AWARD, Class of 2010 Student Professorship  
Awarded to one faculty member at William & Mary each year, providing 3-year stipend

FEDERALIST SOCIETY, 25<sup>th</sup> Annual Gala, Washington, D.C., November 2007  
“The Irrelevance of Parents’ Speech Rights to Surrogate Decision Making for Children”

AMERICAN ASSOCIATION OF PUBLIC WELFARE ATTORNEYS, Annual Conference, Williamsburg, Oct.  
2007 “Filling the Gaps in Child Maltreatment Prevention”

INTERNATIONAL SOCIETY OF FAMILY LAW, 14th World Conference, Vancouver, BC, June 2007  
“Child Protection Law and the State’s Role in Family Formation”

UNIVERSITY OF MONTREAL, Philosophy Dept., Conference on Child, Family, and State, May 2007  
“Parental Values vs. Societal Norms”

HARVARD LAW SCHOOL, 12<sup>th</sup> National Conference on Children and the Law, April 2007  
“A Proactive Approach to Protecting Newborns at High Risk of Maltreatment”

WILLIAM & MARY SCHOOL OF LAW, Summit on Newborns in Child Protective System, Oct. 2006  
Director and presenter: “Newborns at High Risk – Gaps in Law and Practice”

INTERNATIONAL SOCIETY OF FAMILY LAW, 12th World Conference, Salt Lake City, July 2005  
“Against Balancing Children’s Interests Against Parents’ Interests”

UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL SCHOOL OF LAW, February 2005  
"Reforming Parentage Law: A Children's Rights Approach to Family Formation."

WILLIAM & MARY SCHOOL OF LAW, BLACKSTONE LECTURE, October 2004  
“On the Superiority of Youth: Moral Status and Legal Treatment of Children”

UNIVERSITY OF BERNE, Switzerland, conference on The Sacred and the Secular in Education,  
Ascona, Switzerland, October 2004: "Children's educational rights in a liberal society."

AMERICAN PHILOSOPHICAL ASSOCIATION, Annual Meeting, Washington, D.C., Dec. 2003.  
Moderated philosophy of education panel on standardized testing

THE REASONING CENTER, Virginia Commonwealth University, May 2002.  
Presentation at Conference on Improving the Reasoning of College Students.

AMERICAN PHILOSOPHICAL ASSOCIATION, Annual Meeting, Atlanta, December 2001.  
Symposium on my book Religious Schools v. Children’s Rights.



VIRGINIA COMMONWEALTH UNIVERSITY, Philosophy Department, Nov. 2001.  
Presentation: "Conceptualizing Children's Rights."

SEALS, Annual Meeting, Hilton Head, N.C., July 2001: "Children's Relationship Rights."

THE FEDERALIST SOCIETY, Indianapolis, IN, July 2000  
Conference on *Charitable Choice, Religious Liberty, and the Common Good*. Presentation:  
"Will Charitable Choice Require Faith-Based Organizations to Sell Their Souls?"

AMERICAN ATHEISTS ASSOCIATION, Annual Convention, San Francisco, April 2000  
Presentation entitled "Parents' Religion and Children's Education."

WILLIAM & MARY INSTITUTE OF BILL OF RIGHTS LAW, March 2000  
Symposium on *Religion in the Public Square*.  
Presentation: "School Vouchers: Inviting the Public Into the Religious Square."

AMERICAN ASSOCIATION OF LAW SCHOOLS, Annual Meeting, Washington, D.C., January 2000.  
Panel Presentation: "Spiritual Treatment Exemptions to Child Medical Neglect Laws: What We Outsiders Should Think."

AMERICAN ASSOCIATION OF LAW SCHOOLS, Annual Meeting, New Orleans, La., January 1999.  
Family Law symposium: *From Partners to Parents: Toward a Child-Centered Family Law Jurisprudence*. Presentation entitled "Children's Interests in a Family Context."

YOUNG SCHOLARS PROGRAM, Cornell University, Spring 1998  
Selected for weekend of seminars on my writings with scholars in law and philosophy.  
Commentators: Martha Minow, Jeremy Waldron, Samuel Freeman, Kenneth Strike.

PARENTHOOD IN AMERICA CONFERENCE, Univ. Wisconsin-Madison, Spring 1998.  
Presentation entitled "Why Parents' Rights Are Wrong."

CONFERENCE ON U.N. CONVENTION ON RIGHTS OF THE CHILD, Loyola-New Orleans School of Law,  
Spring 1997. "The Convention's conflict with American law on parents' rights."

### **PROFESSIONAL COMMUNITY SERVICE**

Chair, Children and the Law Section, American Association of Law Schools, 2016.

Editorial Board, THEORY AND RESEARCH IN EDUCATION

Authored numerous amicus briefs in cases involving children's medical care or adoption

## **LEGAL PRACTICE**

**Law Guardian and Assigned Counsel**, New York State Family Court. July 1995 - July 1996

Legal representation of children and parents in abuse, neglect, custody, foster care, children in need of supervision, and juvenile delinquency proceedings.

**Attorney**, Coudert Brothers, Washington, D.C. Jan. 1989 - Sept. 1990

**Attorney**, Sutherland, Asbill, and Brennan, Washington, D.C. Sept. 1987 - Jan. 1989

## **PRIOR ACADEMIC POSITIONS**

**Associate Professor**, William & Mary School of Law, August 2003 to August 2005.

**Assistant Professor**, William & Mary School of Law, August 2000 to August 2003.

**Assistant Professor**, University of Wyoming College of Law, July 1998 to July 2000.

**Visiting Assistant Professor**, Chicago-Kent College of Law, IIT. July 1996 to May 1998

**Instructor**, Stanford University, Department of Philosophy. Spring 1994

**Teaching Assistant**, Stanford University, Department of Philosophy. Sept. 1991 - June 1993