Contents

List	t of Figures	page x
List	t of Contributors	xi
Acknowledgments		xx
	Introduction: The New Generation of Conscience Objections in Legal, Political, and Cultural Context Susanna Mancini and Michel Rosenfeld	1
	PART I CONSCIENTIOUS OBJECTION IN A CONSTITUTIONAL DEMOCRACY: THEORETICAL PERSPECTIVES	21
1	Conscience and Its Claims: A Philosophical History of Conscientious Objection Julie Saada and Mark Antaki	23
2	The Conscience Wars in Historical and Philosophical Perspective: The Clash between Religious Absolutes and Democratic Pluralism Michel Rosenfeld	58
3	Conscientious Objections Bernhard Schlink	102
4	Egalitarian Justice and Religious Exemptions Cécile Laborde	109
5	Is There a Right to Conscientious Objection?	127

viii Contents

6	Affect and the Theo-Political Economy of the Right to Freedom of "Thought, Conscience and Religion" Marinos Diamantides	149
	PART II CONSCIENTIOUS OBJECTION OR CULTURE WARS? THE CHANGING DISCOURSE OF RELIGIOUS LIBERTY CLAIMS	185
7	Conscience Wars in Transnational Perspective: Religious Liberty, Third-Party Harm, and Pluralism Douglas NeJaime and Reva Siegel	187
8	Transatlantic Conversations: The Emergence of Society-Protective Antiabortion Arguments in the United States, Europe, and Russia Susanna Mancini and Kristina Stoeckl	220
9	The Geopolitics of Transnational Law and Religion: Wars of Conscience and the Framing Effects of Law as a Social Institution Pasquale Annicchino	258
	PART III OBJECTING TO ANTIDISCRIMINATION LAWS IN THE NAME OF MAINSTREAM RELIGIOUS CONVICTIONS: STRIKING A BALANCE BETWEEN FREEDOM AND EQUALITY	² 75
10	Objections to Antidiscrimination in the Name of Conscience or Religion: A Conflicting Rights Approach Eva Brems	277
11	The Role of the European Court of Human Rights in Adjudicating Religious Exception Claims Helen Keller and Corina Heri	303
12	When Do Religious Accommodations Burden Others? Nelson Tebbe, Micah Schwartzman, and Richard Schragger	328
	PART IV CONSCIENCE, ACCOMMODATION AND ITS HARMS: CHILDREN, WOMEN, AND SEXUAL MINORITIES	347
13	The Missing Children in Elite Legal Scholarship Marci A. Hamilton	349

Contents	ix
	•

14	Religious Refusals and Reproductive Rights: Claims of Conscience as Discrimination and Shaming Louise Melling	375
15	Seeking to Square the Circle: A Sustainable Conscientious Objection in Reproductive Health Care Emmanuelle Bribosia and Isabelle Rorive	392
16	Marriage Registrars, Same-Sex Relationships, and Religious Discrimination in the European Court of Human Rights Christopher McCrudden	414
	PART V CONCLUDING PERSPECTIVES ON THE CONSCIENCE WARS	463
17	Mission Still Impossible Stanley Fish	465
18	The Politics of Religion: Democracy and The Conscience Wars Robert Post	473
Index		485