

## **“Integrating Faith, Morality, and Law School”**

2006 Annual Meeting Workshop: “A Search for Balance in the Whirlwind of Law School”

Robert F. Cochran, Jr., Louis D. Brandeis Professor and Director, Institute on Law, Religion, and Ethics, Pepperdine University; and  
Samuel Levine, Associate Professor of Law, Pepperdine University

“A Meaningful Life?” - Funeral Video Clip From “LA Law: The Pilot”

A Jew’s and a Christian’s Law School Experiences

The Institute on Law, Religion, and Ethics, Pepperdine University School of Law

Conferences:

“Can the Ordinary Practice of Law be a Religious Calling?” - February, 2004

“Lawyers, Faith, and Social Justice: Our Responsibility to ‘the Orphan, the Widow, the Alien,’ and ‘the Least of These’” - February 2005

“Lawyers, Faith, and Peacemaking” - February 3-4, 2006 (see attached program)

Curriculum

Legal Ethics Course - “Faith, Morality, and Law Practice” (see attached)

Jewish Law (see attached)

Christian Perspectives on Legal Thought Seminar (see attached)

Islamic Law

Law and Morality

Religious Dispute Resolution

Institutions:

Union Rescue Mission Legal Clinic

Institute on Law, Religion, and Ethics

Straus Institute for Dispute Resolution

Recent Student-Faculty Lunchtime Forums:

“Religious Faith in a World of Rambo Litigators and Enron Corruption” -  
Professors Thomas Bost and Timothy Perrin

“Family, Law Practice, and Time Pressures” - Attorney Panel

“The Spirituality of St. Ignatius – Manna in the Desert of Law Practice” -  
Judge Frank Firmat, Orange County Superior Court

“The Christian Concept of Vocation” -  
Justice Donald Lemons, Virginia Supreme Court

“International Religious Freedom: A Report Card” -  
Samuel Ericson, Director, Advocates International

“Erasing the Tension Between Career and Mission: Law as the Practical  
Application of Deeply Held Values” - Rabbi Daniel Lappin

“An Answer to the Clergy Sexual Abuse Problem?” - Steven Gailbach

“Bringing Justice to an Unjust World” - International Justice Mission Staff

“The Roberts Nomination, Judges, and Religious Faith”  
Judge Bruce Einhorn, Dean Kenneth Starr, Professor Douglas Kmiec

“On Moral Grounds: Holocaust Reparations Litigation” - Lisa Stern

**Pepperdine Institute on Law, Religion, and Ethics Conference**  
**“Lawyers, Faith, and Peacemaking”**  
**February 3-4, 2006, Malibu, California**

***Keynote Speakers***

**Rabbi Yitzchok Adlerstein**, the Sydney M. Irmas Chair in Jewish Law and Ethics at Loyola Law School directs the Simon Wiesenthal Center’s Project Next Step

**Rudolph Carrasco**, Executive Director, Hrambee Christian Family Center, Pasadena, California, seeks racial reconciliation and develops indigenous leadership.

**Father Alexei Smith**, pastor and Director of the Office of Ecumenical and Inter-  
[http://law.pepperdine.edu/ilre/bulletin\\_board.html](http://law.pepperdine.edu/ilre/bulletin_board.html)religious Affairs of the Archdiocese of Los Angeles.

***Peacemaking in the Ordinary Practice of Law***

**Josh Hofheimer**, partner, Sidley, Austin, Brown & Wood, technology and intellectual property.

**William Bollard**, of Julander, Brown & Bollard, international business litigation

**Julie J. Shemitz** - Assistant United States Attorney, Central District of California

**Samuel B. Casey**, the President and CEO of the Christian Legal Society

***Moslem/Christian Dialogue on Peacemaking***

**Glen H. Stassen**, the Lewis B. Smedes Professor of Christian Ethics at Fuller Theological Seminary and the author of Just Peacemaking.

**Riffat Hassan** is a native of Pakistan and professor of religious studies and humanities at the University of Louisville, Kentucky.

***Peacemaking in the Family and the Religious Congregation***

**Antonio Mendoza**, Professor of Law, Pepperdine University, teaches international business and cross-cultural dispute resolution

**Ronald M. Supancic**, practices collaborative law in family disputes in LA

**Lynn Pace**, oversees dispute resolution training for Peacemaker Ministries.

***Crime, Punishment, and Reconciliation***

**Cheryl Ward-Kaiser** will tell the story of the murder of her husband and the rape of her daughter in front of her eyes and her road to forgiveness

**Ron Clausson**, a Mennonite, is director of the Center for Peacemaking and Conflict Studies at Fresno Pacific University

***Faith and Peacemaking in Family Law and Civil Litigation***

**Nancy Stock** is the Presiding Judge of the Orange County Superior Court.

**Francisco Firmat**, is the family court supervising judge in Orange County.

**Judy Williams** is a mediator and collaborative law family attorney.

**Byron Beam**, is a civil litigation attorney with the firm of Beam, Brobeck & West.

***Luncheon Address: Kenneth Starr, “The Law as Peacemaker”***

***For information, see: [http://law.pepperdine.edu/ilre/bulletin\\_board.html](http://law.pepperdine.edu/ilre/bulletin_board.html)***

Two factors that determine what people do are the law and their moral values. Law places some limits on what people can do, but if the law was the only limit that people placed on their activities, this would not be a very pleasant world. We would not consider a person who merely obeys the law, and in every other respect acts selfishly, to be a very good person. Law practice is not different in this respect from other areas of life. There are laws of professional conduct that limit what a lawyer and client can do, but within the limits of the law is a substantial area in which the lawyer and client have discretion. Generally, this is the area in which people's moral values come into play (though, one's moral values might call on him or her at times to disobey the law to exercise conscientious objection). Many people's moral values are derived from their religious values. This course will consider the influence of law, morality, and religious faith on what lawyers and clients can and should do. It will provide an opportunity for you to reflect on the type of practice that you would like to have. Since the great majority of students in the class are likely to come from Christian backgrounds, most of the focus on religious values will be on what the Christian tradition might say about law practice. Many other religions have similar teachings to those of the Christian faith, so much that we discuss may have application to those from other traditions. We will do some readings about what other faiths might say about law practice.

#### Books and Materials:

- Joseph Allegretti, *The Lawyer's Calling: Christian Faith and Legal Practice* (Paulist Press, 1996).  
 Thomas L. Shaffer & Robert F. Cochran, Jr., *Lawyers, Clients, and Moral Responsibility* (West, 1994).  
 The Model Rules of Professional Conduct  
 Leo Tolstoy, *The Death of Ivan Ilich* (1886)  
 Sanford Levinson, Identifying the Jewish Lawyer: Reflections on the Construction of Professional Identity, 14 *Cardozo L. Rev.* 1577 (1993)  
 Samuel J. Levine, The Broad Life of the Jewish Lawyer: Integrating Spirituality, Scholarship and Profession, 27 *Tex. Tech. L. Rev.* 1199 (1996)  
 Martha W. Barnett (2001 ABA President), "Professionalism Conference Keynote Address," 52 *South Carolina Law Review* 453-457 (2001)  
 ABA Professionalism Committee, "Teaching and Learning Professionalism," 1-9 (1996)  
 Robert F. Cochran, Jr., "Professionalism in the Postmodern Age: Its Death, Attempts at Resuscitation, and Alternate Sources of Virtue," 14 *Notre Dame Journal of Law, Ethics, and Public Policy* 305-320 (2000).  
 "To Kill a Mockingbird"  
 Robert F. Cochran, Jr., "Lawyers and Virtues" *Notre Dame Law Review*  
 Thomas L. Shaffer, "The Gentleman From Maycomb, Alabama," in *American Legal Ethics* 3-57 (1985)  
 Roger Cramton, "The Ordinary Religion of the Law School Classroom," 29 *Journal of Legal Education* 247-263 (1978)  
 Anthony Kronman, *The Lost Lawyer: Failing Ideals of the Legal Profession* 113-115 (1993)  
 Thomas Shaffer, "Maybe a Lawyer Can Be a Servant; If Not..." in Baker & Floyd, *Can a Good Christian Be a Good Lawyer?* 193-206 (1998).  
 Thomas Shaffer, "A Separate Professional Morality," from Shaffer, *American Legal Ethics* 167-183 (1985)  
 Teresa Collett, "To Be a Professing Woman," in Baker & Floyd, *Can a Good Christian Be a Good Lawyer?* 53-65 (1998).  
 Gordon Beggs, "Defending the Rights of the Poor," 37 *Catholic Lawyer* 1-8  
 Matthew 25:34-46 ("In as much as you have done it to the least of these, you have done it to me.")  
 Lawyers, Actors and Roles: Jenkins, "A Matter of Principle," *Moody Monthly* 76 (September, 1997)  
 AA Man for All Seasons  
 Martin Luther King, "A Letter from a Birmingham Jail"  
 Steven Brill, "When a Lawyer Lies," *Esquire* 23-24 (Dec. 19, 1978)

The syllabus for my Jewish Law course reflects my aim of helping students appreciate the relevance of Jewish law to a broad range of legal issues. As most of the students who enroll in the course have little or no background in Jewish law, we begin with a discussion of the sources and structure of Jewish law, from both historical and conceptual perspectives. In an effort to make students more comfortable with this material, I rely primarily on articles in American law journals. While I try to draw parallels to American legal structure and history whenever possible, this part of the course primarily provides an opportunity for a broad understanding of the mechanics of Jewish law through an examination of the Jewish legal system on its own terms.

We continue the introductory stage of the course with a look at interpretation in Jewish law. Through examples of both civil law and ritual law interpretation, I seek to demonstrate that these two components of the Jewish legal system share a common analytical framework and are inextricably linked. We thus continue the process of looking at Jewish law on its own terms by relying on the work of scholars of Jewish law, although a number of the examples I select yield obvious comparisons to issues in American law, in both substance and methodology. Likewise, discussions of authority in interpretation lead to comparisons to the structure of the American judiciary.

After these lessons, students have generally gained a working knowledge of the Jewish legal system sufficient to allow them to analyze substantive areas of law in a comparative context. Therefore, the next stage of the course consists of discussions of criminal law, capital punishment, self-incrimination, confidentiality, and abortion in Jewish law and American law. Most students already have a substantial interest in, if not a familiarity with, these areas of law. In addition, they often gain a new perspective on American law as a result of examining the contrast cases in Jewish law. The materials for these subjects are drawn from both American law journals and works of Jewish law.

The final stage of the course looks at the intersection of Jewish law with modern legal systems, particularly the United States and the State of Israel. Focusing on American get laws and kosher fraud laws involves American constitutional law, which in turn is compared and contrasted with the dynamic of incorporation of Jewish law in certain areas of Israeli law. Moreover, the Israeli model introduces an international component to the course and exemplifies the difference between Jewish law and the law of the modern, secular State of Israel.

My syllabus offers one attempt to synthesize elements of some of the potential models for a course in Jewish law in an American law school, consistent with my goals in teaching the course. The substance and style of Jewish law courses vary widely in the different schools offering such a course. Nevertheless, it is my hope that, as both the legal profession and the legal academy continue to recognize increasingly the importance of religion in the lives of lawyers, Jewish law courses and scholarship will be seen as an integral part of the interface of law and religion.

For further discussion and extensive citations to related sources, see:  
Samuel J. Levine, *Teaching Jewish Law in American Law Schools: An Emerging Development in Law and Religion*, 26 *FORDHAM URBAN LAW JOURNAL* 1041 (1999);  
Samuel J. Levine, *Teaching Jewish Law in American Law Schools—Part II: An Annotated Syllabus*, 2 *CHICAGO-KENT JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW* 1 (2002).

Most of the readings will come from *Christian Perspectives on Legal Thought* (eds. Michael McConnell, Robert Cochran, and Angela Carmella, Yale University Press, 2001) (hereafter, CPLT). The semester will conclude with discussion of student papers. Unless otherwise instructed, read two of the following essays for each class session.

Foreword--Harold J. Berman

1. Christian Perspectives on Schools of Legal Thought
  - a. Enlightenment Liberalism
    - Old Liberalism, New Liberalism, and People of Faith - Michael W. McConnell
    - Liberal Hegemony and Religious Resistance - Stephen L. Carter
    - Christianity and the Roots of Liberalism - Elizabeth Mensch
    - The Earthly Peace of the Liberal Republic - H. Jefferson Powell
  1. Legal Realism
    - A Century of Skepticism - Albert W. Alschuler
  2. Critical Legal Studies
    - Law and Belief: Critical Legal Studies and Philosophy of the Law-Idea - David S. Caudill
  3. Critical Race Theory
    - What's Love Got to Do With It? Race Relations and the Second Greatest Commandment  
W. Burlette Carter
    - Reinhold Niebuhr and Critical Race Theory - Davison M. Douglas
    - Hispanics, Catholicism, and the Legal Academy - José Roberto Juárez, Jr.
  4. Feminism
    - Independence or Interdependence? A Christian Response to Liberal Feminists -  
Teresa Stanton Collett
    - Citizen-Soldiers are Like Priests: Feminism in Law and Theology - Leslie Griffin
  5. Law and Economics
    - Law and Economics: An Apologia - Stephen M. Bainbridge
    - A Catholic Social Teaching Critique of Law and Economics - George E. Garvey
2. Christian Traditions and the Law
  - Christian Traditions, Culture, and Law - Robert F. Cochran, Jr.
  1. Synthesists: Reconciling Christ and Law
    - A Catholic View of Law and Justice - Angela C. Carmella
    - Natural Law - Gerard V. Bradley
  2. Conversionists: Christ Transforming Law
    - The Calvinist Paradox of Distrust and Hope at the Constitutional Convention -  
Marc A. Hamilton
    - A Calvinist Perspective on the Place of Faith in Legal Scholarship - David S. Caudill
  3. Separatists: Christ Against Law
    - The Radical Reformation and the Jurisprudence of Forgiveness - Thomas L. Shaffer
    - "Incendiaries of Commonwealths": Baptists and Law - Timothy L. Hall
    - On Liberty and Life in Babylon: A Pilgrim's Pragmatic Proposal - Richard F. Duncan
  4. Dualists: Christ and Law in Tension
    - A House Divided?: Anabaptist and Lutheran Perspectives on the Sword - David M. Smolin
    - Making Our Home in the Works of God: Lutherans on the Civil Use of the Law -  
Marie A. Failing & Patrick R. Keifert
3. Christian Perspectives on Substantive Areas of the Law
  1. God's Joust, God's Justice: An Illustration from the History of Marriage Law - John Witte, Jr.
  2. Human Nature and Criminal Responsibility: The Biblical View Restored - Phillip E. Johnson
  3. Christianity and Environmental Law - John Copeland Nagle
  4. Can Legal Ethics Be Christian? - Joseph G. Allegretti
  5. A Historical Perspective on Anglo-American Contract Law - C. M. A. Mc Cauliff
  - f. Tort Law and Intermediate Communities: Calvinist and Catholic Insights - Robert F. Cochran, Jr.