

**AALS SECTION ON LAW AND RELIGION**  
**December 2009 Newsletter**

**EXECUTIVE COMMITTEE**

**Section Officers:**

Samuel J. Levine  
**Co-Chair**  
Pepperdine University School of Law

Mark C. Modak-Truran  
**Co-Chair**  
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Christopher C. Lund  
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Nelson Tebbe (Program on U.S. Const. Issues)  
**Co-Chair of the Program Committee**  
Brooklyn Law School

Paul Horwitz  
**Co-Chair of the Nominating Committee**  
University of Alabama School of Law

Bernadette A. Meyler  
**Co-Chair of the Nominating Committee**  
Cornell University Law School

**Other Executive Committee Members:**

Kathleen Brady (Immediate Past Chair)  
**Executive Committee Member**  
Villanova University School of Law

Richard W. Garnett  
**At-large Executive Committee Member**  
Notre Dame Law School

Asifa Quraishi  
**At-large Executive Committee Member**  
University of Wisconsin Law School

This has been another exciting year for the Section on Law and Religion. We have another interesting program planned for next month's AALS meeting in New Orleans with two panels—*Nonbelievers and the First Amendment* and *The Freedom of Religion and Belief Jurisprudence of the European Court of Human Rights: Legal, Moral, Political, and Religious Perspectives*. We note panels of some other sections that may be of interest to you.

Below you will also find information about our annual business meeting, which will take place immediately after our section program, *Nonbelievers and the First Amendment*, on Saturday afternoon, January 9, 2010. You will also find information regarding last year's business meeting, including the election of this past year's Section

officers. Finally, as is customary, we are including a bibliography of law and religion books and articles published since last year's newsletter.

## **I. 2010 AALS ANNUAL MEETING PROGRAMS: SECTION ON LAW AND RELIGION AND PROGRAMS OF INTEREST**

### **A. Section on Law and Religion: *Nonbelievers and the First Amendment***

Saturday, January 9, 2010, 3:30-5:15 p.m.

Versailles Ballroom, Third Floor (Hilton New Orleans Riverside)

**Moderator:** Nelson Tebbe, Brooklyn Law School

- Speakers:**
- 1) Caroline Corbin, University of Miami School of Law
  - 2) R. Kent Greenawalt, Columbia University School of Law
  - 3) Douglas Laycock, The University of Michigan Law School
  - 4) Bruce Lincoln, The University of Chicago Divinity School
  - 5) Winnifred Sullivan, University at Buffalo Law School

In his inaugural address, President Obama said “we are a nation of Christians and Muslims, Jews and Hindus—and nonbelievers.” This panel will address the relationship between nonbelievers and the First Amendment, including its speech and religion aspects. Today, arguably, that relationship has become particularly fraught because of increased government support of mild religiosity. With regard to aid, think of President Obama’s proposal to continue and perhaps expand the faith-based initiatives program. And with regard to government expression, consider officials’ strong endorsement of the Pledge of Allegiance, the national motto “In God We Trust,” and legislative prayer. Before long, the Supreme Court will likely address the Constitutionality of these forms of governmental support for generic observance. That inquiry will draw the Justices into difficult questions concerning the Constitutional status of nonbelievers: Are nonbelievers excluded by government support of religiosity? If so, can they craft challenges based on the religion clauses of the First Amendment, which purport to protect the free exercise of “religion” alone? If they are not properly seen to be excluded, is that because non-belief should be considered a form of American faithfulness? The Court may also find itself addressing related matters, such as whether nonbelievers qualify for exemptions from general laws in the same way as traditional believers sometimes do and, finally and most generally, whether the Constitution requires or permits religion to be acknowledged and protected as a distinctive dimension of human flourishing. Business Meeting at Program Conclusion.

### **B. Section on Law and Religion: *The Freedom of Religion and Belief Jurisprudence of the European Court of Human Rights: Legal, Moral, Political, and Religious Perspectives***

Sunday, January 10, 2010, 9:00 a.m.-12:00 p.m.

Jefferson Room, Third Floor (Hilton New Orleans Riverside)

*Co-Sponsored by the Sections on Islamic Law and Jewish Law*

**Moderator:** Brett G. Scharffs, Brigham Young Univ. Law School

- Speakers:**
- 1) Zachary Calo, Valparaiso Univ. School of Law
  - 2) Peter Danchin, Univ. of Maryland School of Law
  - 3) W. Cole Durham, Jr., Brigham Young Univ. Law School
  - 4) Carolyn Evans, Univ. of Melbourne School of Law, Australia
  - 5) Malcolm Evans, Bristol Univ. School of Law, United Kingdom
  - 6) Gerhard Robbers, Univ. of Trier, Germany

During the past fifteen years, the European Court of Human Rights has been engaging seriously with freedom of religion and belief rights under Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. In many ways the scope and ambition of the Court's jurisprudence has been breathtaking, especially when viewed from the United States, but many questions have begun to emerge about whether the Court has established an intellectual and conceptual architecture that is up to the task of dealing with the increasingly complex cases involving religious freedom that the Court is currently facing and will soon face. This panel, comprised of experts from Europe, the United States and Australia, will address a number of important issues that have been or are in the process of being addressed by the Court, including: wearing religious symbols and clothing in public places (including the headscarf controversies and cases from France and Turkey); the rights of religious groups to register and receive recognition (including issues that arise with tiered registration systems that provide special benefits to favored religious groups); rights of religious association, such as the right of churches to hire and fire personnel on the basis of religious qualifications; free speech rights, including the line between proper and improper proselytism, hate speech, and defamation of religion. The panel will also assess the contributions the Court has made to international conceptions and theories of human rights, as well as religious perspectives (in particular, Jewish, Christian and Islamic views) on the meaning of the law and religion jurisprudence of the Court for these religious traditions.

**C. Section on Jewish Law: *Is Halakha Jewish Law?***

Friday, January 8, 2010, 8:30-10:15 a.m.

Elmwood Room, Third Floor (Hilton New Orleans Riverside)

Speakers to be Announced / Program Description Not Available

Business Meeting at Program Conclusion

**D. Section on Islamic Law: *Beyond Theory, Beneath the State: Islamic Legal Counseling, Mediation and Arbitration***

Saturday, January 9, 2010, 8:30-10:15 a.m.

Oak Alley, Third Floor (Hilton New Orleans Riverside)

Business Meeting at Program Conclusion

**Moderator:** Sadiq Reza, New York Law School

- Speakers:**
- 1) Michael Jay Broyde, Emory University School of Law
  - 2) Yusuf Talal DeLorenzo, Chief Shariah Officer and Board Member, Shariah Capital Inc., New Canaan, Connecticut

- 3) Talal Y. Eid, Executive/Religious Director, Islamic Institute of Boston, Quincy, Massachusetts
- 4) Anver Emon, University of Toronto Faculty of Law

The program focuses on routine applications of Islamic law that are central to the lives of observant Muslims but largely unaddressed in scholarly literature: practices of alternative dispute resolution (ADR). Observant Muslims regularly consult imams (religious leaders), legal scholars, and other non-state actors for Islamic legal answers and guidance in a variety of personal matters and business affairs – when getting married or divorced, writing wills, making investments, structuring commercial transactions, and more. In many instances these answers are sought and dispensed informally: in a mosque or living room, on the telephone, via email, even online. In others the exchange is more formal, as in mediation sessions or arbitration tribunals. Whatever their form, these practices constitute the most direct and immediate interactions many Muslims have with Islamic law. In this program, leading practitioners and scholars from the U.S. and Canada will explain and illustrate how these practices translate legal theory into practical answers for Muslims who seek to resolve disputes and conduct their affairs pursuant to Islamic legal rules and norms. Analogous practices in Jewish communities will also be addressed, as will ADR practices generally, providing a comparative perspective and broader context within which to assess the Islamic ADR practices. Business Meeting at Program Conclusion.

**E. Section on Socio-Economics: *The Relationship of Faith and Law: The Example of Corporate Law***

Thursday, January 7, 2010, 9:40-10:40 a.m.

Belle Chasse, Third Floor (Hilton New Orleans Riverside)

Program Description Not Available

**Moderator:** Lyman P.Q. Johnson, Washington and Lee University School of Law

- Speakers:**
- 1) Michael Jay Broyde, Emory University School of Law
  - 2) Sarah H. Duggin, The Catholic Univ. of America, Columbus School of Law
  - 3) David Opderbeck, Seton Hall University School of Law
  - 4) Gordon Smith, Franklin Pierce Law Center
  - 5) Susan J. Stabile, University of St. Thomas School of Law

**II. 2010 BUSINESS MEETING: SECTION ON LAW AND RELIGION**

The 2010 Business Meeting of the Section on Law and Religion will be held at the conclusion of the Section program on **Saturday, January 9, 2010, at 5:15 p.m.** At this meeting, we will elect Section officers for next year. These include the Chair Elect, the Chair of the Program Committee, and the Chair of the Nominating Committee. We will also elect two at-large members of the Section's Executive Committee. This year's Chair Elect (Christopher C. Lund) will automatically become Chair for next year. The offices of Chair, Chair Elect, Chair of the Program Committee, and Chair of the

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Nominating Committee can be held by one individual or by two individuals (who will serve as Co-Chairs). This year's Nominating Committee has put together a slate of candidates to serve as Chair Elect, Chair of the Program Committee, and Co-Chairs of the Nominating Committee. Nominations may also be made from the floor. Nominations for the two at-large positions on the Executive Committee may only come from the floor. *We encourage all Sections members to attend and to think about nominations that they might want to make from the floor.*

The Nominating Committee's slate of nominees is as follows:

**Co-Chairs Elect:**

Nelson Tebbe (Brooklyn) and Brett Scharffs (BYU)

**Program Committee Chair:**

Paul Horwitz (Alabama)

**Nominating Committee Co-Chairs:**

Bernadette A. Meyler (Cornell) and Josh Chafetz (Cornell)

### **III. 2010 SECTION ON LAW AND RELIGION BUSINESS MEETING**

At last year's business meeting, the Chair Elect, the Co-Chairs of the Program Committee, the Co-Chairs of the Nominating Committee, and two at-large members of the Executive Committee were elected for 2009. In accordance with the Section By-Laws, the Co-Chairs Elect, Samuel Levine and Mark Modak-Truran, automatically became the Chair at the conclusion of the business meeting. Additional members of the Executive Committee for 2009 are also listed below as well as the remaining members of the Nominating and Program Committees. We thank all of these officers and committee members for their hard work during 2009.

#### **EXECUTIVE COMMITTEE**

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University of Alabama School of Law

**Program Committee--US Constitutional Law:** Nelson Tebbe (Chair, Brooklyn), Kristi Bowman (Michigan State), Patrick Brennan (Villanova), Caroline Corbin (Miami), Richard Garnett (Notre Dame), Samuel Levine (Pepperdine), Barry McDonald (Pepperdine), and Frank Ravitch (Michigan State).

**Program Committee—International Religious Liberty:** Brett Scharffs (Chair, BYU), Zachary Calo (Valparaiso), Marie Failing (Hamline), Mark Modak-Truran (Mississippi College), Joel Nichols (Pepperdine), and Asifa Quraishi (Wisconsin).

**Nominating Committee:** Bernadette Meyler (Cornell) & Paul Horwitz (Alabama) (Co-Chairs), Kathleen Brady (Villanova), Josh Chafetz, (Cornell), Kyle Duncan (Mississippi), Christopher Lund (Wayne State), Mike Moreland (Villanova), and Mark Scarberry (Pepperdine).

#### **IV. 2009 SECTION ON LAW AND RELIGION PROGRAM PAPERS**

At last year's AALS annual meeting, the Section on Law and Religion hosted an excellent and well-attended program entitled *Scriptural Interpretation and Constitutional Interpretation*. The papers from this program will soon appear in the *Michigan State Law Review* (forthcoming 2010).

#### **V. LAW AND RELIGION BIBLIOGRAPHY FOR 2009**

As in the past, we have compiled a law and religion bibliography that includes books and articles published in the last year. We have tried to compile a comprehensive list that includes items appearing since last year's newsletter and through November of

2009. As has been our practice, we are also including a list of law and religion related blogs which may be of interest to Section members. We apologize for any errors or omissions to this year's bibliography, and ask you to inform Christopher C. Lund, the 2009 Chair Elect and Newsletter Editor, about any necessary corrections for next year's newsletter. Special thanks to Wayne State University School of Law student Rachel Reed Bryant for her help in compiling this bibliography.

**BOOKS**

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