There are many people to thank as I near the end of my term as Chair of our Section on Law & Religion. The generous, thoughtful and quite frankly extraordinary people involved in the leadership of our Section have made this term immensely enjoyable and incredibly productive.

* This newsletter is a forum for the exchange of ideas. Opinions expressed here are not necessarily those of the Section and do not necessarily represent the position of the Association of American Law Schools.
When you next see them, please join me in thanking the members of the Executive Committee for their contributions to the life of our Section: Marc DeGirolami (St. John’s), Michael Helfand (Pepperdine), Paul Horwitz (Alabama), Nathan Oman (William & Mary), Elizabeth Sepper (Washington-St. Louis), Anna Su (Toronto) and Robin Wilson (Illinois).

Michael Helfand deserves special thanks for agreeing to chair a newly-convened Prize Committee to award a new Section prize to an untenured scholar for excellence in law & religion scholarship. I thought it was important to create this prize in order to recognize the great work of younger scholars in the field. After deliberation and discussion, Michael and his committee colleagues—Zak Calo (Hamad Bin Khalifa/Valparaiso), Rick Garnett (Notre Dame) and Lisa Shaw Roy (Mississippi)—decided to name the Section prize after Harold Berman, a veritable giant in our field. The inaugural Berman Prize will be given to Nathan Chapman (Georgia) at our Section program in January. I thank Tracie Thomas of the AALS for generously supporting the idea for this award, and I also thank Zak, Rick and Lisa for all they did for our Section.

The Nomination Committee, chaired by Anna Su along with Caroline Mala Corbin (Miami), Claudia Haupt (Columbia/Yale), Christopher Lund (Wayne State) and Michael Moreland (Villanova), has put together an outstanding slate of officers for the year ahead. Thank you to each of them. I am confident that the next Executive Committee will work well under the leadership of our Section Chair-Elect, Robin Wilson, when their work begins in January. (Robin’s work has already begun, in fact; she prepared this annual newsletter. We owe Robin a debt of gratitude for this great service to the Section.)

And a very big thank you to our Program Committee, co-chaired by Paul Horwitz and Nathan Oman. Paul and Nathan were supported by David Landau (Florida State), Frank Ravitch (Michigan State) and Yaniv Roznai (IDC-Herzliya). David and Yaniv developed the ideas for the program and secured the participation of outstanding panelists for our Section program in January, while Frank made arrangements to have the papers published in the Michigan State Law Review. Paul, Nathan, David, Frank and Yaniv deserve our thanks for giving us such a wonderful program. We look forward to seeing many of you in attendance.

One more thank you: to our dear friend Mark Scarberry (Pepperdine) for keeping us connected virtually through the email list he so generously maintains for our Section.

I hope for all of us a smooth end to 2016, and I send you my best wishes of health, happiness and fulfillment as we begin the new year.

Yours sincerely,

Richard Albert

UPCOMING EVENTS

Pepperdine University School of Law Nootbaar Conference
“Religious Critiques of Law”
March 9-10, 2017
We hope you will join us for the conference discussed below. Mark your calendar, submit a proposal, and forward this message to blogs, list serves, and people who might be interested. Speakers already confirmed include the following:

- John Witte (Emory)
- Sanford V. Levinson (Texas)
- Jihad Turk (Claremont School of Theology)
- Linda R. Meyer (Quinnipiac)
- Richard Helmhotz (Chicago)
- Michael Broyde (Emory)
- Steve Smith (San Diego)
- Robert K. Vischer (St. Thomas)
- Perry Dane (Rutgers Camden)
- Mark Modak-Truran (Mississippi College)
- John Nagle (Notre Dame)
- Barbara Armacost (Virginia)
- Michael Moreland (Villanova)
- Nathan B. Oman (William & Mary)
- David Opderbeck (Seton Hall)
- Jeffrey Pojanowski (Notre Dame)
- Sarah M.R. Cravens (Akron)
- Samuel Levine (Touro)
- Ellen Pryor (UNT Dallas)
- David VanDrunen (Westminster Seminary, CA)
- Mark Aaron Goldfeder (Emory)

In his book, American Lawyers and Their Communities, Tom Shaffer envisions a downtown street. On one side of the street is a house of worship; on the other is a courthouse. According to Shaffer, law schools train lawyers to look at the religious congregation from the courthouse—that is to analyze the problems the religious congregation creates for the law. Shaffer contends that too often, law schools ignore the possibility that there might be a view of the courthouse from the house of worship.

Prophetic witness is discounted in law teaching. Our part of the academy, more than any other, has systematically discouraged and disapproved of invoking the religious tradition as important or even interesting. It ignores the community of the faithful so resolutely that even its students who have come to law school from the community of the faithful learn to look at the [religious congregation] from the courthouse, rather than at the courthouse from [religious congregation].
Shaffer encourages lawyers to "walk across the street" and look at the courthouse from their religious congregation.

At this conference, some speakers will support Shaffer's notion that religious critiques of law are of important value to our legal discourse. Others will challenge that notion. It is our hope that the conference will draw speakers from a wide variety of religious traditions who will address the law from their tradition. We welcome speakers who might address the history of religious influence on law. Any subject area of law is fair game, but we want to encourage speakers to address subjects that do not ordinarily come in for religious critique—property, contracts, torts, etc. We hope some speakers will address the legal profession and legal education from religious perspectives. We hope that you can join us.

As usual, we are trying to do a national conference on a local budget. We will not be able to provide travel expenses. Our hope is that speakers' home institutions will be able to provide their expenses.

If you have questions about the substance of the conference, contact Bob Cochran robert.cochran@pepperdine.edu or Michael Helfand michael.helfand@pepperdine.edu.

**SECTION SPONSORED EVENTS**

**2017 AALS ANNUAL MEETING**
San Francisco, CA

The Section’s annual program is scheduled for Wednesday, January 4, 2017, from 1:30pm to 4:30pm, in Continental Parlor 9 on the Ballroom Level of the Hilton San Francisco Union Square. The program will feature the panel described below. We will also award the Section’s new Harold Berman Prize to an untenured scholar for excellence in law & religion scholarship. The program will close with a business meeting; anyone interested in joining the leadership of the Section is invited to express an interest at the business meeting.

**Is Secularism a Non-Negotiable Aspect of Liberal Constitutionalism?**

This panel will take a comparative perspective on the place of religion and secularism in modern constitutionalism. Invited speakers will consider a number of models, drawn from Asia, Africa, the Middle East, and Europe, and will raise questions about the extent to which liberal constitutionalism is consistent with constitutional designs that privilege a particular religion in various ways. Invited speakers will also consider the extent to which the principle of secularism should be and is being placed beyond the realm of democratic debate, for example by being formally entrenched in unamendable constitutional clauses (as in Turkey) or as a feature within the constitution’s "basic structure" and therefore implicitly entrenched (as in India). This panel will enrich our comparative understanding of constitutionalism and religion, and it will moreover unsettle our conventional understandings of this relationship in American constitutional law.
Moderator:

Richard Albert  
Boston College Law School

Panelists:

Alan Brownstein  
University of California-Davis School of Law

Jaclyn Neo  
National University of Singapore Faculty of Law

Frank Ravitch  
Michigan State University College of Law

Michel Rosenfeld  
Benjamin N. Cardozo School of Law

Yaniv Roznai  
Radzyner Law School, Interdisciplinary Center Herzliya

Seval Yildirim  
Whittier Law School

Papers from the program will be published in Michigan State Law Review.

All are welcome to attend.

Richard Albert (Boston College)  
Chair, Section on Law & Religion  
richard.albert@bc.edu

The AALS Section on Law and Religion will be co-sponsoring a session at the AALS Annual Meeting in San Francisco, CA, on Wednesday, January 4, 2017, from 8:30 a.m. to 10:15 a.m., “Is There Room in the U.S. Legal System for Halacha and Sharia? Family Law, Public Accommodations, Antitrust, and Arbitration. The moderator and panelists will be:

Moderator:

Michael Helfand  
Associate Professor of Law  
Pepperdine University School of Law
Panelists:

Michael J. Broyde  
Professor of Law  
Emory University School of Law

Haider Ala Hamoudi  
Associate Professor of Law  
Associate Dean of Research & Faculty Development  
University of Pittsburgh School of Law

Asifa Quraishi-Landes  
Associate Professor of Law  
University of Wisconsin Law School

Barak Richman  
Edgar P. and Elizabeth C. Bartlett Professor of Law & Professor of Business Administration  
Duke University School of Law

Topics for discussion will include:

(a) the legal controversy over government regulation of the practice of metzitzah b’peh in New York and its implications for other forms of ritual practice in the American Jewish and Islamic communities (ritual practice v. public health regulation)

(b) the enforceability of the Islamic mahr that a husband is required to give a wife upon concluding the marriage contract (religious law v. commercial law),

(c) the controversy over single-sex swim hours at public swimming pools (religious regulation of modesty v. laws governing public accommodation)

(d) the regulation of clergy placement and employment terms in congregations by rabbinic professional associations and its implications for other religious communities (communal self-governance v. antitrust), and

(e) judicial approval of religious arbitration in the recent dispute between Luis Garcia and the Church of Scientology and its implications for religious arbitration in Jewish and Islamic communities (communal self-governance v. due process rights).

The panel will consider these topics not only from the perspective of U.S. law’s accommodation of religious law but also the capacity and obligation of religious law to accommodate secular legal norms in ways that may reduce tension. Audience participation in the discussion will be most welcome.
I hope you will consider attending and spreading the word to anyone whom you think might be interested.

Timothy D. Lytton
Georgia State University College of Law
tlytton@gsu.edu

AALS FACULTY RECRUITMENT CONFERENCE
RELIGIOUSLY AFFILIATED LAW SCHOOLS RECEPTION
October 13-15, 2016

The AALS Section on Law and Religion co-sponsored the Religiously Affiliated Law Schools’ reception at the AALS Faculty Recruitment Conference. This year’s reception was held on October 13-15, at the Marriott Wardman Park Hotel. Thank you to Jeff Pojanowski (Notre Dame Law School) for providing us this sponsorship opportunity.

AWARDS

The AALS Section on Law & Religion is delighted to award Nathan Chapman the Inagural Harold Berman Prize for Excellence in Law & Religion Scholarship.

The Harold Berman Prize is awarded to an untenured scholar on the tenure track for excellence in law and religion scholarship, who has made an outstanding scholarly contribution to the field of law and religion. The members of the prize committee selected Nathan’s article, “The Establishment Clause, State Action and Town of Greece,” (24 Wm. & Mary Bill Rts. J. 405 (2015)) as the most meritorious.

The members of the prize committee include, Zak Calo (Hamad Bin Khalifa / Valparaiso), Rick Garnett (Notre Dame Law School), Michael Helfand (Pepperdine University School of Law), Lisa Shaw Roy (The University of Mississippi School of Law).

The AALS Section on Law & Religion will award Nathan at the AALS Annual Meeting on January 4, 2017, 1:30pm to 4:30pm. We will gather at the Hilton San Francisco Union Square, Continental Parlor 9, Ballroom Level.

We ask that you join us in congratualing Nathan on this award.

MEMBER NEWS & RECENT AND FORTHCOMING PUBLICATIONS


Jonathan Cohen, Professor of Law and Associate Director of the Institute for Dispute Resolution at the University of Florida Levin College of Law, published A Genesis of Conflict: The Zero-Sum Mindset, 17 Cardozo J. of Conflict Resol. 427 (2016). In the paper Professor Cohen examines the subject of zero-sum thinking in both contemporary American legal dispute resolution discourse and in the Bible, more specifically, the book of Genesis.

Daniel Conkle, Robert H. McKinney Professor of Law and Adjunct Professor of Religious Studies at the Indiana University Maurer School of Law, published Religion, Law, and the Constitution (Fondation Press, Concepts and Insights Series, 2016).

Christine A. Corcos (Richard C. Cadwallader Associate Professor of Law, Louisiana State University Paul M. Hebert Law Center), The Scrying Game: The First Amendment, the Rise of Spiritualism, and State Prohibition or Regulation of the Crafty Sciences, 1848-1944, 38 Whittier Law Review -- (forthcoming 2017).


Marie Failinger, Professor of Law at the Mitchell Hamline School of Law, reports that the Council Council on Religion and Law (CORAL) in conjunction with United Theological Seminary and Luther Seminary held its annual symposium in St. Paul, MN, on Friday, October 28, around the theme “Lutheran Interpretations of Contemporary gal Issues.” The program, co-chaired by Marie Failinger from Mitchell Hamline and Ronald Duty, a retired Evangelical Lutheran Church in America staff member, was the second in a series of conferences held for Lutheran academic lawyers and theologians to explore Lutheran perspectives on secular legal issues. The essays from the first conference on Lutheran perspectives, published by Eerdmans Publishing in summer 2016 as “On Secular Governance,” included chapters on religious freedom, authority and interpretation,
property law, human trafficking, immigration reform, and other issues. The essays from the 2016 conference, which explore general themes such as natural and positive law, annomorianism, family and criminal law, the Religion Clauses, conscientious objection beyond military service, economic justice, medical trials, property issues, torture and just war will be published by Ashgate Press in early 2018. CORAL’s fall 2017 conference will focus on new exploration of ideas in seminal articles published during the first thirty years of the Journal of Law and Religion.


**John Inazu** was given the Sally D. Danforth Distinguished Professor of Law and Religious Chair at Washington University School of Law. Additionally, John reports that his book CONFIDENT PLURALISM: SURVIVING AND THRIVING THROUGH DEEP DIFFERENCE was published this year by University of Chicago Press.


**Micah Schwartzman**, the Edward F. Howrey Professor of Law at the University of Virginia School of Law, published *The Rise of Corporate Religious Liberty* (with Chad Flanders and Zoë Robinson eds., Oxford University Press, 2016), *Some Realism about Corporate Rights*, in THE RISE OF CORPORATE RELIGIOUS LIBERTY 345 (Schwartzman et al. eds., 2016) (with Richard Schragger), and *Introduction*, in THE RISE OF RELIGIOUS CORPORATE LIBERTY xiii (Schwartzman et al. eds., 2016) (with Chad Flanders and Zoë Robinson).


2016 Law and Religion Bibliography

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Feisal Abdul Rauf, Defining Islamic Statehood: Measuring and Indexing Contemporary Muslim States (2015)

Farrah Ahmed and UPSO eCollections, Religious Freedom under the Personal Law System (2016)


Clifford Ando and Jörg Rüpke, Public and Private in Ancient Mediterranean Law and Religion (2016)


Asli Ümmühan Bali and Hanna Lerner, Constitution Writing, Religion and Democracy (2016)


Thomas C. Berg and Douglas Laycock, Protecting Same-Sex Marriage and Religious Liberty (2016)


Akeel Bilgrami (ed.), Beyond the Secular West (2016)

Josh Blackman and Cato Institute, Unraveled: Obamacare, Religious Liberty, and Executive Power (2016)


Elizabeth A. Clark and Brett G. Scharffs, *Religion and Law in the USA* (2016)


Rafael Domingo, *God and the Secular Legal System* (2016)


Alessandro Ferrari and James Toronto (eds.), *Religions and Constitutional Transitions in the Muslim Mediterranean* (2016)


Robert W. Hefner (ed.), *Shari’a Law and Modern Muslim Ethics* (2016)

Kathleen Holscher, *Religious Lessons: Catholic Sisters and the Captured Schools Crisis in New Mexico* (2016)


Francis Lyall, *Church and State in Scotland: Developing Law* (2016)


Ari Mermelstein and Shalom E. Holtz (eds.), *The Divine Courtroom in Comparative Perspective* (2015)


Philip Fountain et al. (eds.), *Religion and the Politics of Development: Critical Perspectives on*
Manfred Pirner et al. (eds.), Human Rights and Religion in Educational Contexts (2016)

Adam Possamai et al. (eds.), The Sociology of Sharia (2015)

Richard Potz and Brigitte Schinkele, Religion and Law in Austria (2016)

Tara Povey, Social Movements in Egypt and Iran (2015)

Russell Powell, Shari’a in the Secular State: Evolving Meanings of Islamic Jurisprudence in Turkey (2016)


Ramesh, Constitutional Status of Religious Conversions in India (2016)


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John Witte and Joel A. Nichols Religion and the American Constitutional Experiment (4th ed.) (2016)


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Zachary A. Albun, Why We Can’t Be Friends: Quakers, Hobby Lobby, and the Selective Protection of Free Exercise, 34 Law & Inequality 183 (2016)


H. E. Baber, Religion in the Public Square, 53 San Diego Law Review 31 (2016)


John Witte, Jr., *The Case Against Polygamy*, 262 First Things 43 (2016)


**Special issues:**


Christopher Bennett, *Penal Disenfranchisement*, 10 Criminal Law and Philosophy 411 (2016)
IAN LOADER, In Search of Civic Policing: Recasting the 'Peelian' Principles, 10 Criminal Law and Philosophy 411 (2016)

Gideon Yaffe, In Defense of Criminal Possession, 10 Criminal Law and Philosophy 441 (2016)
Albert W. Dzur, The Priority of Participation: A Friendly Response to Professor Gargarella, 10 Criminal Law and Philosophy 473 (2016)
Frederick Schauer, On the Utility of Religious Toleration, 10 Criminal Law and Philosophy 479 (2016)
François Boucher and Cécile Laborde, Why Tolerate Conscience?, 10 Criminal Law and Philosophy 493 (2016)
Peter Jones, Accommodating Religion and Shifting Burdens, 10 Criminal Law and Philosophy 515 (2016)
Corey Brettschneider, Equality as a Basis for Religious tolerance: A Response to Leiter, 10 Criminal Law and Philosophy 537 (2016)
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William N. Eskridge, Jr., Latter-Day Constitutionalism: Sexuality, Gender, and Mormons, 16 University of Illinois Law Review 1227 (2016)
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James G. Dwyer, Religious Schooling and Homeschooling Before and After Hobby Lobby, 16 University of Illinois Law Review 1393 (2016)
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Howard M. Friedman, *Religion Clause*
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www.SOL-reform.com
*Times and Seasons*: A Mormon Group Blog
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