

**AALS SECTION ON LAW AND RELIGION**  
**December 2014 Newsletter**

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We are pleased to bring you the 2014 newsletter for the Section on Law and Religion. We look forward to seeing you at our program at the 2014 AALS annual conference, "How (Not to) Provide Accommodations for Religion." The program will be held at 8:30-10:15 AM on Monday, January 5, 2015. Additional details are provided below. Many thanks to our Program Committee Co-Chairs, Robert Katz and Paul Horwitz, for their efforts in assembling this outstanding panel.

We hope you will also join us immediately following the Section program for our annual business meeting. We are always looking for section officers and other participants in planning our annual program and other matters, and especially encourage junior professors to participate and become active in the Law and Religion Section. You will find further information about the annual business meeting below. This issue also contains 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, followed by a list of blogs about law and religion.

**I. 2015 AALS ANNUAL MEETING PROGRAMS: SECTION ON LAW AND RELIGION AND PROGRAMS OF INTEREST****A. Section on Law and Religion: *How (Not to) Provide Accommodations for Religion***

Monday, January 5, 2015, 8:30-10:15 AM, Location TBD

**Moderator:** Robert A. Katz, Indiana University Robert H. McKinney School of Law

**Speakers:** Dale Carpenter, University of Minnesota Law School  
Chris Eberle, U.S. Naval Academy  
Ayesha N. Khan, Americans United for Separation of Church and State  
Stephen Macedo, Princeton University Department of Politics

Religious accommodations from the law have long been one of the central sore spots of modern church-state jurisprudence, on and off the courts. For almost a quarter century now, the Supreme Court has made clear that the Free Exercise Clause does not require judicial accommodations or exemptions from neutral, generally applicable laws that burden religion—but neither the Free Exercise nor Establishment Clauses forbid legislative accommodations. But the devil is in the details, and the subject of legislative accommodations has become greatly controverted in the past few years. The contraceptive mandate cases, objections by state employees asked to issue same-sex marriage licenses, the flurry of state legislative efforts to ensure conscience exemptions from antidiscrimination laws: all these and many other episodes suggest that legislative accommodations for religion have become a new front in the culture wars and an important subject for students of both the law and the politics of religious freedom, particularly as that concept comes into conflict with values of egalitarianism and nondiscrimination. This panel will focus on the legal, political, practical, and jurisprudential questions raised by recent controversies over legislative accommodations for religious believers.

Business Meeting at conclusion of program.

**B. Section on Islamic Law (co-sponsored by Section on Jewish Law): *The Future of Islamic Finance***

Saturday, January 3, 2015, 8:30-10:15 AM, Location TBD

**Moderator:** Faisal Kutty, Valparaiso University School of Law

**Speakers:** Dr. Mehmet Asutay, Ph.D., Durham University Business School  
Haider Ala Hamoudi, University of Pittsburgh School of Law  
Mr. Michael J.T. McMillen, Curtis, Mallet-Prevost, Colt & Mosle LLP

Chaim N. Saiman, Villanova University School of Law

Over the course of the last half century, Islamic finance has grown from an embryonic and virtually unknown practice into an industry with over \$1 trillion in assets. Yet as it has developed into this level of maturity and significance, important questions respecting its future abound. Primary among such questions is whether Islamic finance is merely the narrow discharge of a divine obligation, or whether it claims to do some social good beyond mere obedience to religious dictate. If Islamic finance is in fact merely the strict adherence to religious rules without concern as to broader social consequences, can it continue to expand when lay Muslims seem to expect so much more from the industry? If it aspires to be more, can it in fact develop a broader set of social objectives it takes seriously, relating to the achievement of social justice and ethical finance, while still remaining economically viable? These questions and others relating to the future of Islamic finance will be explored by our panel of experts, all of whom have written extensively on the subject.

**C. Section on Jewish Law (co-sponsored by Section on Islamic Law):**  
***Religious Beliefs and Political Agendas: What Role Should Faith Play in the Public Square?***

Sunday, January 4, 2015, 4:00-5:45 PM, Location TBD

**Moderator:** Adam S. Chodorow, Arizona State University Sandra Day O'Connor College of Law

**Speakers:** Professor Andrew March, Yale University Department of Political Science  
Maimon Schwarzschild, University of San Diego School of Law  
Lucia A. Silecchia, The Catholic University of America, Columbus School of Law  
Suzanne L. Stone, Benjamin N. Cardozo School of Law

The intersection of religious belief and public policy has been in the news of late. Most notably, a number of recent Supreme Court cases have focused on claims that civil laws either improperly burden or favor religion in violation of the First Amendment. However, questions also arise in the other direction. To what extent do religious traditions encourage followers to attempt to have their religious practices or beliefs codified into secular law? How do or should religious traditions use sacred texts and/or commentary thereon to develop positions on modern issues? What impact, if any, should the pluralistic nature of our society have on these debates? Panelists will discuss Jewish, Christian, and Islamic perspectives on these and other questions about the proper role of religion in the public sphere as well as Rawls's argument that any debates regarding secular laws be framed solely in secular terms.

## II. 2015 SECTION ON LAW AND RELIGION BUSINESS MEETING

The 2015 Business Meeting of the Section on Law and Religion will be held at the conclusion of the Section program at 10:15 AM on Monday, January 5, 2015. 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, Marc DeGirolami, will automatically become Chair for next year. The offices of Chair, Chair Elect, Chair of the Program Committee, and Chair of the Nominating Committee can be held by one individual or by two individuals (who would then 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 Chair 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 Section members to attend and to think about nominations that they might want to make from the floor.*

### NOMINATIONS FOR 2015 EXECUTIVE COMMITTEE

Marc O. DeGirolami  
**Chair**  
St. John's University  
School of Law

Richard Albert  
**Chair Elect**  
Boston College  
School of Law

Michael A. Helfand  
**Chair, Program Committee**  
Pepperdine University  
School of Law

Zoë Robinson  
**Chair, Nominating Committee**  
DePaul University  
School of Law

**Other Executive Committee Members:**

**Executive Committee Members (at-large)**

### III. UPCOMING CONFERENCES OF INTEREST

#### A. *Wisdom, Law, and Lawyers* (February 27-28, 2015)

Herbert and Elinor Nootbaar Institute on Law, Religion, and Ethics  
Pepperdine University School of Law  
Malibu, California

At a time when law is seen by many as purely a matter of power politics and the lawyer's role as purely a matter of pursuing client economic interests, we want to consider how wisdom should influence deliberations in legislative chambers, courts, and lawyers' offices. Both theoretical wisdom and practical wisdom have much to say about law. We hope to learn from many traditions, both religious and secular. Please join us for the conversation. The following speakers are already confirmed:

William S. Brewbaker III  
University of Alabama School of Law

Jonathan Burnside  
University of Bristol, England

Alberto R. Coll  
DePaul University College of Law

Daisy Hurst Floyd  
Mercer University School of Law

Samuel J. Levine  
Westmont College

Benjamin V. Madison III  
Regent University School of Law

Rick Marrs, Provost and Professor of Religion  
Pepperdine University

Russell G. Pearce  
Fordham University School of Law

Ellen Pryor  
UNT Dallas College of Law

Michael Scaperlanda  
University of Oklahoma College of Law

Brett Scharffs  
J Reuben Clark Law School Brigham Young University

Steven D. Smith  
University of San Diego

Susan Stabile  
University of St. Thomas School of Law

Deanell Reece Tacha  
Pepperdine University School of Law

David VanDrunen  
Westminster Seminary, California

Cheryl Wattley  
UNT Dallas College of Law

R. George Wright  
Indiana University Robert H. McKinney School of Law

Contact: Bob Cochran, [robert.cochran@pepperdine.edu](mailto:robert.cochran@pepperdine.edu)

**B. *Hosanna-Tabor And/Or Employment Division v. Smith?* (March 13-14, 2015)**

Institute for Law and Religion  
University of San Diego School of Law  
San Diego, California

The Supreme Court's decision in *Hosanna-Tabor Evangelical Lutheran School v. EEOC* raised crucial questions. Was the decision reconcilable with the doctrine articulated in *Employment Division v. Smith*? If so, how? Did *Hosanna-Tabor* represent a passing anomaly or a major new direction in the constitutional jurisprudence of religious freedom? Such questions are still very much with us, and they can be addressed both normatively and descriptively and from a variety of standpoints: conventional legal analysis, history, political science, or political theory. This conference will consider such questions and their significance for the future of religious freedom in this country.

Helen Alvare  
George Mason Law

Perry Dane  
Rutgers Law

Marc DeGirolami  
St. John's Law

William Galston  
Brookings

Christopher Lund  
Wayne State University Law

Michael Paulsen  
University of St. Thomas School of Law

Contact: Trang Pham, [tpham@sandiego.edu](mailto:tpham@sandiego.edu)

***C. Law, Religion, and American Healthcare (May 8-9, 2015)***

Harvard Law School  
Cambridge, Massachusetts

Religion and medicine have historically gone hand in hand, but increasingly have come into conflict in the U.S. as health care has become both more secular and more heavily regulated. Law has a dual role here, simultaneously generating conflict between religion and health care, for example through new coverage mandates or legally permissible medical interventions that violate religious norms, while also acting as a tool for religious accommodation and protection of conscience.

This conference, and anticipated edited volume, will aim to: (1) identify the various ways in which law intersects with religion and health care in the United States; (2) understand the role of law in creating or mediating conflict between religion and health care; and (3) explore potential legal solutions to allow religion and health care to simultaneously flourish in a culturally diverse nation.

Contact: Holly Fernandez Lynch, [hlynch@law.harvard.edu](mailto:hlynch@law.harvard.edu)

***D. State Neutrality, Religion, and Private Enterprises (July 2-5, 2015)***

Société Internationale de Sociologie des Religions  
Université Catholique de Louvain, Belgium

Debates on the social responsibility of businesses raise the question of the universalist or particularist nature of the ethics upheld by private legal institutions, ethics which may be legitimized or delegitimized by social practices, but also validated and invalidated by constitutional laws or anti-discriminatory legislations. Indeed, if secular States have separated themselves from Churches and cannot be directly involved in religious affairs,



it is also because they are secular, and the necessity to protect fundamental rights imposes itself on them so that they become, in turn, involved with the religious sphere, of which they will appoint themselves as interpreters, and that, with respect to the values which are present, often in opposition, in a society. In this thematic session we will question how the sphere of the social responsibility of enterprises confront secular States and their institutions, in particular tribunals, to new ethical and religious resources, thus renewing the question of their interpretation. This reflection on the confrontation of tribunals to particularist ethics in the sphere of private enterprise management will be laid out on the basis of theoretical and empirical research so as to facilitate dialogue between legal constraints and the critical resources of the field of the sociology of religion and social ethics. A re-evaluation of the doctrinal and theological tenets of the evoked ethical referents will permit not only a critical assessment of the data submitted to tribunals in cases of litigation, but will also provide an opening to more efficient modes of interaction, within the boundaries of common law, and of more relevant approaches to mediation, with the contextual data.

We invite paper proposals related to this topic to be submitted no later than **December, 15th 2014**. Proposals should use the online form (<http://sisr-issr.org/Program/>)

#### IV. 2014 LAW AND RELIGION BIBLIOGRAPHY

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 2014. As has been our practice, we are also including a list of law and religion related blogs that may be of interest to section members. We apologize for any errors or omissions to this year's bibliography, and ask you to inform Marc DeGirolami, the 2014 Chair Elect and Newsletter Editor, about any necessary corrections for next year's newsletter. Special thanks to John Boersma and Stephanie Cipolla, fellows of the St. John's Center for Law and Religion, for assistance in compiling this bibliography.

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[The Volokh Conspiracy](#)

[Vox Nova](#): Catholic Perspectives on Culture, Society and Politics

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