

AALS SECTION ON LAW AND RELIGION
December 2012 Newsletter

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Welcome to the 2012 newsletter for the Section on Law and Religion. We look forward to seeing you at our program at the 2012 AALS annual conference, *Freedom of the Church*. The program will be held at 10:30 a.m. – 12:15 p.m. on Saturday, January 5, in the Fountain Room, Third Floor of the Hilton New Orleans Riverside in New Orleans, Louisiana. Many thanks to our Program Committee Co-Chairs, Richard Albert and John Inazu, for their efforts in assembling this outstanding panel.

In addition, this year the Section is co-sponsoring a program titled *Remaking the Islamic State after the Arab Spring* with the Section on Islamic Law. That program will be held at 4:00-5:45 p.m. on Sunday, January 6, in the Elmwood Room, Third Floor of the Hilton New Orleans Riverside.

We hope you will also stick around after the main Law and Religion 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. Again, the business meeting will take place immediately after our program, which runs from 10:30 a.m. – 12:15 p.m. on Saturday, January 5, in the Fountain Room, Third Floor of the Hilton New Orleans Riverside. 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.

**I. 2012 AALS ANNUAL MEETING PROGRAMS: SECTION ON
LAW AND RELIGION AND PROGRAMS OF INTEREST**

A. Section on Law and Religion: *Freedom of the Church*

Saturday, January 5, 2013, 10:30 a.m. – 12:15 p.m.

Fountain Room, Third Floor of the Hilton New Orleans Riverside

Moderator: B. Jessie Hill, Case Western Reserve University School of Law

Speakers: Sarah Barringer Gordon, University of Pennsylvania
Paul Horwitz, University of Alabama School of Law
Michael W. McConnell, Stanford Law School
Michael P. Moreland, Villanova University School of Law

Recent legal and political issues have highlighted the potential difference between religious liberty for individuals and religious liberty or autonomy for the organizations to which these individuals belong: the “freedom of the church.” Is “freedom of the church” protected under the First Amendment? If so, what is its foundation, and what are its limits? Does “the church” include religious institutions like hospitals, social services organizations, schools, and universities? To what activities does freedom of the church extend and under what circumstances? How does “freedom of the church” relate to broader questions of social and institutional pluralism?

These questions have been at the center of legal and political controversy surrounding *Hosanna-Tabor v. EEOC*, the contraception mandate, antidiscrimination law, and government funding conditions. While religious liberty has long been formulated in terms of individual “conscience,” freedom of the church asks whether religious institutions can assert themselves in response to laws or policies that affect them. Our distinguished panelists will consider the implications of the freedom of the church (or its absence) for our constitutional republic.

Business Meeting at Program Conclusion.

**B. Section on Islamic Law, Co-Sponsored by Section on Law and Religion:
*Remaking the Islamic State after the Arab Spring***

Sunday, January 6, 2013, 4:00-5:45 p.m.

Elmwood Room, Third Floor, Hilton New Orleans Riverside

Moderator: Seval Yildirim, Whittier Law School

Speakers: Haider Ala Hamoudi, University of Pittsburgh School of Law
Russell Powell, Seattle University School of Law
Asifa B. Quraishi, University of Wisconsin Law School
Intisar Rabb, Boston College Law School
Jeff A. Redding, Saint Louis University School of Law

This panel will focus on the way that Muslims around the world today are trying to

conceptualize and/or “implement” the idea of an Islamic state. It is thus not exclusively on constitutional reform in the Arab World. Participants will explore the states that are likely to emerge from the Arab spring and their relationship to Islam. They will also explore how Muslims outside the Arab world are currently rethinking basic questions of governance and the role of Islam in the State. Topics to be discussed include, but are not limited to, (a) the manner in which Muslims theorize what an Islamic state would look like, (b) changes that have been implemented in recent years in the Muslim world with the goal of Islamizing the state, and (c) the way that the Arab Spring has impacted discourse about Islamic law and the Islamic state in non-Arab countries.

Business Meeting at Program Conclusion.

C. Section on Jewish Law: *Exploring Paradoxes in Jewish and Comparative Law*

Sunday, January 6, 2013, 10:30 a.m.-12:15 p.m.

Newberry Room, Third Floor, Hilton New Orleans Riverside

Moderator: David C. Flatto, Pennsylvania State University, The Dickinson School of Law

Speakers: Perry Dane, Rutgers School of Law – Camden
Steven D. Smith, University of San Diego School of Law
Shay Wozner, Research Fellow, Tel Aviv University, The Buchmann Faculty of Law, Tel Aviv, Israel

Jewish law has various rules that seem very difficult to fathom from a comparative perspective, and sometimes are challenging to understand from its own internal discourse. To give a couple of examples: the evidentiary rule that bans guilty confessions in rabbinic court; and the rule that if the entire court votes to convict in a capital case, the defendant goes free. How can a legal system operate with such rules, and why would they be adopted? These rules seem especially anomalous relative to other legal systems where confession and unanimity are seen as optimal modes of evidence and judicial administration.

A parallel question can also be raised for all legal traditions, including American law. For example, scholars have written much about anomalies found in the rule against perpetuities, the rules and exceptions of hearsay, and a number of anomalies in the U.S. Constitution. These writings usually seek to expose these anomalies in order to propose reform, which is frequently the best plan of action. But this same phenomenon can be examined more analytically as a wider feature of legal traditions. All legal systems have various rules that are anomalous, and yet sometimes they are firmly entrenched. Why is this? Are these rules ways of putting a distinct signature on a legal tradition? Do they start to ironically become emblematic of a given legal tradition? Are they so familiar that people become blind to their anomalous nature? Does this reflect an inherently conservative disposition of legal traditions? Does this tell us something about the culture of law?

This panel will explore the larger phenomenon or specific examples of anomalies or paradoxes in Jewish law, and try to understand their etiology, impact or even justification. It will also reflect on the parallel phenomenon in general jurisprudence.

Business Meeting at Program Conclusion.

II. 2012 SECTION ON LAW AND RELIGION BUSINESS MEETING

The 2012 Business Meeting of the Section on Law and Religion will be held at the conclusion of the Section program on **Saturday, January 5, 2012, at 10:30 a.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 Co-Chairs Elect (Jessie Hill and Bernadette Meyler) 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 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.*

III. 2012 SECTION 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 2012. In accordance with the Section By-Laws, the Co-Chairs Elect, Jessie Hill and Bernadette Meyler, automatically became the Chair at the conclusion of the business meeting. Additional members of the Executive Committee for 2012 are 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 2012.

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Other Executive Committee Members:

Nelson Tebbe (Immediate Past Chair)
Executive Committee Member
Brooklyn Law School

Program Committee: Richard Albert (Co-Chair, Boston College), John Inazu (Co-Chair, Washington University), Mary Jean Dolan (John Marshall), Chad Flanders (St. Louis University), Kristine Kalanges (Notre Dame), and Lisa Roy Shaw (University of Mississippi).

Nominating Committee: Zachary Calo (Co-Chair, Valparaiso), Caroline Mala Corbin (Co-Chair, Miami)

IV. LAW AND RELIGION BIBLIOGRAPHY FOR 2011

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 2012. 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 Jessie Hill or Bernadette Meyler, the 2012 Co-Chairs Elect and Newsletter Editors, about any necessary corrections for next year's newsletter. Special thanks to Case Western Reserve University School of Law library Andrew Dorchak and law student Aurelia Tunru for their assistance in compiling this bibliography.

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