



THE THIRD BI-ANNUAL



CONFERENCE

RELIGION,  
DEMOCRACY,  
AND  
EQUALITY

VIRGINIA, USA

21-23 AUGUST 2013

THE INTERNATIONAL CONSORTIUM FOR LAW AND RELIGION STUDIES



CONFERENCE OF THE  
INTERNATIONAL CONSORTIUM FOR LAW  
AND RELIGION STUDIES

RELIGION,  
DEMOCRACY, AND  
EQUALITY

RICHMOND, WILLIAMSBURG, AND  
CHARLOTTESVILLE VIRGINIA

AUGUST 21-23, 2013

COSPONSORED BY:

INTERNATIONAL CENTER FOR LAW AND RELIGION STUDIES,  
BRIGHAM YOUNG UNIVERSITY

UNIVERSITY OF VIRGINIA SCHOOL OF LAW  
FIRST FREEDOM CENTER

AND

THE INSTITUTE OF BILL OF RIGHTS LAW,  
WILLIAM & MARY LAW SCHOOL



## WEDNESDAY, AUGUST 21, 2013

2-2:30PM **ARRIVAL AND REGISTRATION**  
*Amethyst Room, Hilton Garden Inn Richmond Downtown Hotel,  
Richmond, Virginia*

2:30-4:40 PM **YOUNG SCHOLAR SESSIONS**

2:30-3:30 PM **PARALLEL SESSIONS**

### **SESSION 1 - *Amethyst A* (Spanish interpretation provided)**

Chair: **José Antonio Calvi**, Universidad Católica Sedes Sapientiae,  
Peru

Speakers: **Rodrigo Vitorino Souza Alves**, Faculdade de Direito,  
Universidade Federal de Uberlândia, Brazil

*“Religion and Anti-Discrimination Norms in Brazil”*

**Juan Manuel Gutiérrez Bartol**, Universidad de Montevideo,  
Uruguay

*“Indagaciones Facticas y Juridicas Sobre las Contricciones  
Economicas al Culto”*

**Megan Pearson**, London School of Economics,  
United Kingdom

*“Of Gods and Gays: Proportionality and Sexual Orientation  
Discrimination”*

### **SESSION 2 - *Amethyst B***

Chair: **Mark Hill**, Cardiff University School of Law, United  
Kingdom; University of Pretoria, South Africa

Speakers: **Jeffrey B. Hammond**, Thomas Goode Jones School of Law,  
Faulkner University, United States

*“Harmonizing the Two Kingdoms: For-Profit Businesses,  
the Theology of Work, and the Affordable Care Act’s  
Contraception Mandate”*

**James D. Nelson**, Columbia Law School, United States  
*“Conscience, Incorporated”*

**Free Williams**, University of Virginia, United States  
*“The Definition of Religion in American Courts: Religious  
Minorities and Conformist Pressures”*

3:40-4:40 PM

## PARALLEL SESSIONS

### SESSION 1 - *Amethyst A* (Spanish interpretation provided)

Chair: **Gary B. Doxey**, International Center for Law and Religion Studies, J. Reuben Clark Law School, Brigham Young University, United States

Speakers: **Maria José Valero Estarellas**, Centro Universitario Villanueva, Complutense University, Spain  
“*By the Sweat of Your Face You Shall Eat Bread*”. *State Neutrality, Religion, and the Workplace in the Recent Case Law of the European Court of Human Rights*”  
**Rebeca Vázquez Gómez**, University of La Coruna, Spain  
“*The Ban of Burqa: A Security Issue: The Example of Italy*”  
**Nathan C. Walker**, Columbia University, United States  
“*Unveiling Freedom: Bans on Teachers’ Religious Garb*”

### SESSION 2 - *Amethyst B*

Chair: **Pieter Coertzen**, Stellenbosch University, South Africa

Speakers: **Itai Apter**, International Civil Affairs, Ministry of Justice, Israel

“*Freedom of Religion International: Finding Pathways to Enforce Freedom of Religion Protections by the International Community*”

**Timothy Carey**, Theology Department, Boston College, United States

“*Islamic Law in Pakistan: Historical Roots and Contemporary Implications of the Hudud Ordinances*”

**Michael A. Helfand**, Diane and Guilford Glazer Institute for Jewish Studies, Pepperdine University School of Law, United States

“*Between Law and Religion: Procedural Challenges to Religious Arbitration Awards*”

6-6:30 PM

## RECEPTION

*Miller Rhoads Gerhart Ballroom*

6:30 PM

**DINNER**

*Miller Rhoads Gerhart Ballroom*

**WELCOMES**

*(Spanish interpretation provided)*

**W. Cole Durham, Jr.**, President, ICLARS; Director, International Center for Law and Religion Studies, J. Reuben Clark Law School, Brigham Young University, United States

**Ambassador (ret.) Randolph Bell**, Immediate Past President and Member, Board of Trustees, First Freedom Center, United States

**Honorable William T. “Bill” Bolling**, Lieutenant Governor of Virginia, United States

**CONFERENCE KEYNOTE**

*(Spanish interpretation provided)*

**Heiner Bielefeldt**, United Nations Special Rapporteur on Freedom of Religion or Belief, Germany

*“Freedom of Religion or Belief: A Classical Human Right under Fire?”*

**THURSDAY, AUGUST 22, 2013**

8:30-8:45 AM

**ARRIVAL**

*The College of William and Mary Education Building*  
*301 Monticello Avenue, Williamsburg, Virginia*

9-10:30 AM

**PLENARY SESSION**

*Matoaka Woods Room (Spanish interpretation provided)*

Welcome: **Nathan B. Oman**, Marshall-Wythe School of Law, The  
College of William & Mary, United States

**RELIGIOUS PLURALISM AND TREATMENT OF RELIGIOUS  
MINORITIES**

Chair: **Tahir Mahmood**, Founder and Chairman, Amity University  
Institute of Advanced Legal Studies New Delhi, India

Speakers: **Angela M. Banks**, Cabell Research Professor of Law,  
William and Mary School of Law, United States  
**Asher Maoz**, Dean, Peres Academic Center Law School,  
Israel

**Enyinna Nwauche**, Professor, Department of Law,  
University of Botswana, Botswana

**Ayelet Shachar**, Professor of Law and Canada Research  
Chair in Citizenship and Multiculturalism, University of  
Toronto Faculty of Law, Canada

10:30-11 AM

**BREAK**

11 AM-12 Noon

**PARALLEL SESSIONS**

**SESSION 1 – RELIGIOUS PLURALISM AND TREATMENT OF  
RELIGIOUS MINORITIES**

*Matoaka Woods Room (Spanish interpretation provided)*

Chair: **Carmen Asiain Pereira**, University of Montevideo; Latin  
American Consortium for Freedom of Religion or  
Belief, Uruguay



Speakers: **Iain Benson**, Department of Constitutional Law and Philosophy of Law, Faculty of Law, the University of the Free State University of the Free State, Bloemfontein, South Africa  
*“The Search for Pluralism in the Writings of Said Nursi and in the Roman Catholic Tradition”*  
**Hans-Martien ten Napel**, Institute for Public Law, Section of Constitutional and Administrative Law, Leiden University, Netherlands  
*“Religious Pluralism, Eastern Ethnical Monism and Western ‘Civic Totalism’”*

**SESSION 2 – RELIGIOUS PLURALISM AND TREATMENT OF RELIGIOUS MINORITIES**

*Dogwood A Room*

Chair: **Ofrit Liviatan**, Department of Government and Weatherhead Center for International Affairs, Harvard University, United States

Speakers: **Edward M. Gaffney**, Valparaiso University School of Law, United States  
*“Full and Free Exercise of Religion’: James Madison on Established Religion from the Ancient to the Modern World”*

**Mary Anne Platjies van Huffel**, Stellenbosch University, South Africa  
*“The Quest to Religious Pluralism and Treatment of Religious Minorities in Post-Apartheid South Africa”*

**SESSION 3 – RELIGIOUS PLURALISM AND TREATMENT OF RELIGIOUS MINORITIES**

*Dogwood B Room*

Chair: **Robert T. Smith**, International Center for Law and Religion Studies, J. Reuben Clark Law School, Brigham Young University, United States

Speakers: **Supriyanto Abdi**, University of Melbourne, Australia  
*“Negotiating State Neutrality and Religious Freedom in Muslim-Majority Countries: The Case of Liberal-Progressive Islam in Indonesia”*

Elena Miroshnikova, Tula State Leo Tolstoy Pedagogical  
University, Russia  
“*Religious Pluralism and Treatment of Religious Minorities  
in Religious Education*”

12 Noon-1 PM            **BUFFET LUNCH FOR PARTICIPANTS AND REGISTERED GUESTS**  
*Concourse*

1-2:30 PM            **PLENARY SESSION**

*Matoaka Woods Room (Spanish interpretation provided)*

Chair:            **Sophie van Bijsterveld**, Professor, Tilburg University,  
Netherlands

Speakers:       **Barbora Bukovská**, Senior Director for Law and Policy,  
ARTICLE 19, United Kingdom  
**Toby Mendel**, Executive Director, Centre for Law and  
Democracy, Canada  
**Mohammed Saeed Eltayeb**, Legal Expert, Bureau of Human  
Rights, Qatari Ministry of Foreign Affairs, Qatar  
**Michael O’Flaherty**, Professor of Human Rights Law;  
Director, Irish Centre for Human Rights, National  
University of Ireland; Chief Commissioner of the Northern  
Ireland Human Rights Commission, Ireland  
**Robert C. Post**, Dean and Sol & Lillian Goldman Professor  
of Law, Yale Law School, United States  
**Jeroen Temperman**, Assistant Professor of Public  
International Law, Erasmus University, Rotterdam,  
Netherlands

2:30-3 PM            **BREAK**

3-4 PM                **PARALLEL SESSIONS**

**SESSION 1 – RELIGIOUS SYMBOLS, PUBLIC REASON, AND THE  
STATE**

*Matoaka Woods Room (Spanish interpretation provided)*

Chair:            **Mark L. Movsesian**, Center for Law and Religion, St. John’s  
University School of Law, United States

Speakers: **Perry Dane**, Rutgers University School of Law,  
United States  
*“Endorsement, Legal Reason, and the Misguided Quest for Reasonableness”*  
**Marc DeGirolami (with Kevin C. Walsh)**, Center for Law  
and Religion, St. John’s University School of Law,  
United States  
*“Judging Theory”*  
**Javier Martínez-Torrón**, Catedrático de Universidad,  
Universidad Complutense, Spain  
*“Institutional Religious Symbols, State Neutrality and  
Protection of Minorities”*

**SESSION 2 – HATE SPEECH, HATE CRIMES, AND RELIGIOUS  
MINORITIES**

*Dogwood A Room*

Chair: **Nathan B. Oman**, Marshall-Wythe School of Law, The  
College of William & Mary, United States

Speakers: **H. Victor Conde**, International Human Rights Lawyer/  
Educator, United States  
*“Rights of Religious Institutions and their Ministers within  
the Ambit of Defamation of Religion in the International  
Human Rights Arena Particularly the UN Human Rights  
Council”*  
**Asma Uddin**, The Becket Fund for Religious Liberty,  
United States  
*“Free Speech and Public Order Exceptions: A Case for the  
U.S. Standard”*

**SESSION 3 – RELIGIOUS PLURALISM AND RELIGIOUS  
MINORITIES**

*Dogwood B Room*

Chair: **Frederick M. Gedicks**, J. Reuben Clark Law School,  
Brigham Young University, United States

Speakers: **Ofrit Liviatan**, Department of Government and  
Weatherhead Center for International Affairs, Harvard  
University, United States  
*“The Limits of Equality-Based Legislation as Vehicle of  
Pluralism: lessons from Northern Ireland”*  
**Barak D. Richman (with Michael Helfand)**, Duke  
University, United States  
*“On Religion and Money”*

4:30-5:30 PM

**WALKING TOUR OF HISTORIC WILLIAMSBURG**

5:45 PM

**DINNER FOR PARTICIPANTS AND REGISTERED GUESTS**  
*Shields Tavern, 422 E. Duke of Gloucester Street, Williamsburg*

## FRIDAY, AUGUST 23, 2013

8:15-8:45 AM

### ARRIVAL

*The University of Virginia School of Law, Charlottesville, Virginia*

9-10:30 AM

### PLENARY SESSION

*WB 152 (Spanish interpretation provided)*

Welcome: **Paul G. Mahoney**, Dean and David and Mary Harrison  
Distinguished Professor of Law, University of Virginia  
School of Law, United States

### RELIGION AND GENDER: SAME-SEX MARRIAGE

Chair: **Silvio Ferrari**, Professor of Law and Religion, University of  
Milan, Italy

Speakers: **Rex Ahdar**, Professor, Faculty of Law, University of Otago,  
New Zealand

**Ursula C. Basset**, Professor of Law, Pontificia Universidad  
Católica, Argentina

**Kent Greenawalt**, University Professor, Columbia  
University Law School, United States

**Douglas Laycock**, Robert E. Scott Distinguished Professor  
of Law; University of Virginia, United States

**Renata Uitz**, Professor of Law Legal Studies Department,  
Central European University, Hungary

10:30-11 AM

### BREAK

11 AM-12 Noon

### PARALLEL SESSIONS

#### SESSION 1 – REGIONAL STUDIES

*WB 152 (Spanish interpretation provided)*

Chair: **Sergio González Sandoval**, Pontificia Universidad  
Javeriana, Bogota, Colombia

Speakers: **Octavio Lo Prete**, Argentine Council for Religious Freedom  
(CALIR), Argentina

*“Treatment of Minority Religions in Argentina”*

**María Concepción Medina González**, Ministry of Education, Mexico  
*“Pluralismo religioso y minorías religiosas en el Estado laico Mexicano (Religious Pluralism and Religious Minorities in the Lay Mexican State)”*

**Norberto Padilla**, Universidad Católica Argentina - Consejo Argentino Para la Libertad Religiosa (CALIR), Argentina  
*“The Argentine Experience on Religious Pluralism”*

**SESSION 2 – RELIGION AND GENDER**

**WB 102**

**Chair:** **Merilin Kiviorg**, Wolfson College, University of Oxford, United Kingdom

**Speakers:** **Pieter Coertzen**, Faculty of Theology, Stellenbosch University, South Africa  
*“Law and Religion in South Africa: Civil Marriages, Civil Unions, Partnerships, and Religions”*

**Joseph E. David**, Faculty of Oriental Studies, University of Oxford, United Kingdom  
*“Familial Imagination in Law and Religion”*

**SESSION 3 – RELIGION AND GENDER: THE U.S. HEALTH AND HUMAN SERVICES CONTRACEPTIVE MANDATE CONTROVERSY**

**WB 103**

**Chair:** **Zachary Calo**, Valparaiso University School of Law, United States

**Speakers:** **Helen Alvaré**, George Mason School of Law, United States  
**Frederick M. Gedicks**, J. Reuben Clark Law School, Brigham Young University, United States  
*“Permissive Accommodation, Substantial Burden, and the Contraception Mandate”*

**SESSION 4 – RELIGION AND GENDER**

**WB 104**

**Chair:** **Elena Miroshnikova**, Tula State Leo Tolstoy Pedagogical University, Russia

Speakers: **Olabisi I. Aina**, Obafemi Awolowo University, Ile-Ife, Osun State, Nigeria  
*“Gender, Religion, Culture and Law: Emerging Issues in African Democratic Governance”*  
**Stephen Baskerville**, Patrick Henry College, United States  
*“Sexual Radicalism and Religious Freedom”*

12 Noon-1 PM

**LUNCH FOR PARTICIPANTS AND REGISTERED GUESTS**  
*WB 152*

1-2:30 PM

**PLENARY SESSION**

*WB 152 (Spanish interpretation provided)*

**RELIGION AND ANTI-DISCRIMINATION NORMS**

Chair: **Gerhard Robbers**, Director, Institute for European Constitutional Law, and Director, Institute for Legal Policy, University of Trier, Germany

Speakers: **Katayoun Alidadi**, Doctoral Researcher, Catholic University of Leuven, Belgium; Project Researcher in the FP7 Programme RELIGARE  
**Carmen Domínguez Hidalgo**, Professor of Civil Law and Director of the Family Center of the Pontificia Universidad Católica de Chile, Chile  
**Andrew Koppelman**, John Paul Stevens Professor of Law, Northwestern University, United States  
**Lawrence Sager**, Alice Jane Drysdale Sheffield Regents Chair, University of Texas School of Law, United States  
**Eiichiro Takahata**, Professor of Law, Nihon University, Japan

2:30-3 PM

**BREAK**

3-4 PM

**PARALLEL SESSIONS**

**SESSION 1 – RELIGION AND ANTI-DISCRIMINATION NORMS IN EUROPE**

*WB 152 (Spanish interpretation provided)*

Chair: **Iain Benson**, Faculty of Law, the University of the Free State, Bloemfontein, South Africa

Speakers: **Mark Hill**, Cardiff University School of Law, United Kingdom; University of Pretoria, South Africa  
*“Religion and Anti-Discrimination Norms: The Turning of the Tide in Strasbourg and Luxembourg”*  
**Merilin Kiviorg**, Wolfson College, University of Oxford, United Kingdom  
*“Collective Religious Autonomy versus Individual Rights: A Challenge for the ECtHR?”*  
**Agustin Motilla de la Calle**, Universidad Carlos III de Madrid, Spain  
*“Discrimination Laws in EU: Labour Discrimination in Religious Matters”*

**SESSION 2 – RELIGION AND ANTI-DISCRIMINATION NORMS**  
**WB 152**

Chair: **Ana Maria Célis Brunet**, Center of Religious Liberty of the Facultad de Derecho at the Pontificia Universidad Católica de Chile

Speakers: **James Oleske**, Lewis & Clark Law School, United States  
*“‘State Inaction’, Equal Protection, and Religious Exemptions to Same-Sex Marriage Laws”*  
**Greg Walsh**, School of Law, The University of Notre Dame Australia, Australia  
*“Anti-Discrimination Legislation and the Appropriate Regulation of the Employment Decisions of Religious Schools”*

**SESSION 3 – IS RELIGION SPECIAL?**  
**WB 103**

Chair: **Edward M. Gaffney**, Valparaiso University School of Law, United States

Speakers: **Barry Bussey**, Canadian Council of Christian Charities, Canada  
*“Does Religion Merit Special Protection in the Law? (Within the Canadian Legal Context)”*  
**Mark L. Movsesian**, Center for Law and Religion, St. John’s University School of Law, United States  
*“Psychic Sophie and the Rise of the Nones”*



**Micah Schwartzman (with Richard Schragger)**, University of Virginia School of Law, United States  
*“Religion as a Legal Proxy”*

**SESSION 4 – REGIONAL STUDIES**

**WB 104**

**Chair:** **Juan Navarro Floria**, ICLARS Steering Committee;  
Pontificia Universidad Católica Buenos Aires, Argentina

**Speakers:** **Yaron Catane**, Chief Rabbinate, Hebrew University, Israel  
*“The Challenges of Israel’s Chief Rabbinate: Legal, Religious, and Cultural Aspects”*

**René Pahud de Mortanges**, Faculty of Law, University of Fribourg, Switzerland  
*“How Swiss Law Deals with Religious Minorities”*

**Piotr Stanisz**, The John Paul II Catholic University of Lublin, Poland  
*“The Status of Religious Organizations in Poland: Equal Rights and Differentiation”*

4:30 PM **LEAVE FOR TOUR OF HISTORICAL SITES IN CHARLOTTESVILLE**

7 PM **CLOSING DINNER FOR PARTICIPANTS AND REGISTERED GUESTS**  
*Omni Hotel, 212 Ridge McIntire Road, Charlottesville, Virginia*

**SATURDAY, AUGUST 24, 2013**

9:30 AM **ICLARS GENERAL ASSEMBLY MEETING**  
*Hilton Garden Inn Richmond Downtown Hotel – Gerhart Room*  
*Richmond, Virginia*



## ABOUT ICLARS

The International Consortium for Law and Religion Studies (ICLARS) is an international network of scholars and experts of law and religion begun in 2007 with Professor Silvio Ferrari of the University of Milan as President. The purpose of ICLARS is to provide a forum for exchange of information, data, and opinions among members, which are then made available to the broader scientific community. At present, ICLARS has members from more than 40 countries.

Succeeding Professor Ferrari (Honorary Lifetime President), current President of ICLARS is Professor W. Cole Durham, Jr. of Brigham Young University. Vice-president is Professor Ana Maria Célis Brunet, Professor and Director of the Center of Religious Liberty of the Facultad de Derecho at the Pontificia Universidad Católica de Chile (Santiago). The ICLARS steering committee members are eminent law and religion scholars from Italy, Spain, India, Argentina, Germany, Israel, and South Africa.

ICLARS organizes conferences every other year. The proceedings of the first ICLARS conference, held in Milan in January 2009, are available as *Law and Religion in the 21st Century: Relations between States and Religious Communities* (Ashgate 2010). The proceedings of the second ICLARS conference, held in Santiago, Chile, in September 2011, are available as *Law, Religion, Constitution: Freedom of Religion, Equal Treatment, and the Law* (Ashgate 2013).

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Glade and Kathleen Knight  
and



SOUTHERN VIRGINIA  
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