

AALS SECTION ON LAW AND RELIGION
December 2011 Newsletter

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Welcome to the 2011 newsletter for the Section on Law and Religion. We look forward to seeing you at our program at the 2012 AALS annual conference, *Blasphemy, Religious Defamation, and Religious Nationalism: Threats to Civil Society from Religious Speech and Its Suppression*. The program will be held at 8:30-10:15 a.m. on Friday, January 6, in the Maryland Suite C, Lobby Level, of the Marriott Wardman Park Hotel in Washington, DC. Thanks to the efforts of our Program Committee Co-Chairs, Jessie Hill and Bernadette Meyler, the papers from this program will be published in the *Case Western Reserve Law Review*. In addition, this year the Section is co-sponsoring a program titled *The Impact of the Religious Land Use and Institutionalized Persons Act on States and Local Governments* with the Section on State and Local Government Law. That program, which features some fantastic speakers, will be held at 3:30-5:15 p.m. on Saturday, January 7, in Virginia Suite A, Lobby Level, of the Marriott Wardman Park. The papers from that program will be published in the *Fordham Urban Law Journal*.

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 8:30-10:15 a.m. in Maryland Suite C of the Marriott Wardman Park. 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: *Blasphemy, Religious Defamation, and Religious Nationalism: Threats to Civil Society from Religious Speech and Its Suppression***

Friday, January 6, 2012, 8:30 – 10:15 a.m.

Maryland Suite C, Lobby Level, Washington Marriott Wardman Park Hotel

Moderator: Mark S. Scarberry, Pepperdine University School of Law

Speakers: Robert C. Blitt, University of Tennessee College of Law
Andrew March, Assistant Professor, Department of Political Science,
Yale University
Maria Paz, Stanford Law School
Anat Scolnicov, Deputy Director, Centre for Public Law, University of
Cambridge Faculty of Law
Eugene Volokh, UCLA School of Law

Various countries have recently used laws against hate speech and blasphemy to prohibit certain kinds of criticism of religion and even to criminally prosecute and convict those engaging in speech targeting a particular religion. This trend clearly contrasts with the protections for religious and anti-religious speech provided by the First Amendment of the U.S. Constitution. The intersection between religious speech and individual privacy is, however, at issue in the recent U.S. Supreme Court case of *Snyder v. Phelps*. This session will investigate international developments involving religious defamation, the comparative dimensions of the issue, and potential domestic analogues. The section's annual business meeting follows. The papers from this program are to be published in the *Case Western Reserve Law Review*.

B. Section on State and Local Government Law, Co-Sponsored by Section on Law and Religion: *The Impact of the Religious Land Use and Institutionalized Persons Act on States and Local Governments*

Saturday, January 7, 2012, 3:30-5:15 p.m.

Virginia Suite A, Lobby Level, Washington Marriott Wardman Park Hotel

Moderator: Patricia Salkin, Albany Law School

Speakers: Marci A. Hamilton, Yeshiva University, Benjamin N. Cardozo
School of Law
Douglas Laycock, University of Virginia School of Law
Alan Weinstein, Cleveland State University, Cleveland-Marshall
College of Law

Employment Division v. Smith, 494 U.S. 872 (1990), ruled that the Free Exercise Clause of the First Amendment did not require states to grant religious accommodations with respect to "neutral laws of general applicability" even when those laws imposed a substantial burden on a person's religious practices. In 1997, *City of Boerne v. Flores*, 521 U.S. 507 (1997), held that

Congress's first attempt to overrule Smith legislatively was unconstitutional; and three years later, Congress enacted the Religious Land Use and Institutionalized Persons Act. The Act covers land use decisions of states and local governments when those decisions involve programs that receive federal assistance or affect interstate commerce or when they implement procedures involving individualized assessments of property. When it applies, the Act prohibits the imposition of a "substantial burden on the religious exercise of a person" unless the burden is the "least restrictive means" of furthering "a compelling governmental interest." This panel will offer a diverse range of perspectives on the statute's impact on the ability of states and local governments to perform their important land use functions.

C. Section on Jewish Law: *Jewish Law at Harvard: Rediscovering Nathan Isaacs*

Thursday, January 6, 2012, 9 a.m.-12 p.m.

Virginia Suite C, Lobby Level, Washington Marriott Wardman Park Hotel

Moderator: Samuel J. Levine, Touro College, Jacob D. Fuchsberg Law Center

Speakers: Larry DiMatteo, Professor, Department of Management, University of Florida, Warrington College of Business Administration, Gainesville, FL
Samuel Flaks, Agency Attorney, Teachers' Retirement System of the City of New York, New York, NY
Sanford Levinson, The University of Texas School of Law
Jed H. Shugerman, Harvard Law School
Aviam Soifer, University of Hawaii, William S. Richardson School of Law
Carol A. Weisbrod, University of Connecticut School of Law

Nathan Isaacs (1886-1941) was one of the first Jewish tenured professors at Harvard University. Isaacs made groundbreaking contributions in the pages of the Harvard Law Review and the Yale Law Journal, identifying contracts of adhesion and absolute tort liability as aspects of the new legal order that emerged in the early 20th century. A key member of the Harvard Business School faculty in the 1920s and 1930s, and closely associated with Harvard Law School Dean Roscoe Pound, Isaacs advocated emphasizing the business function of legal devices rather than doctrine.

However, Isaacs's most lasting legacy may be that of a professor teaching at Harvard at the height of the University's infamous quota system on Jewish enrollment. Notably, Isaacs was a Jewish communal leader, was deeply knowledgeable of Jewish texts and history, and was observant of Jewish law. He was also associated with Harvard Judaic Studies scholar Harry Wolfson.

Moreover, on a scholarly level, Isaacs's study of Jewish law influenced his perception of American law, while his conception of secular law shaped his understanding of Jewish law. For example, drawing upon the history of Jewish law, Isaacs developed a "cycle theory" of law that he believed applied to all legal systems.

A panel of distinguished scholars will reflect upon the lessons and legacy of Nathan Isaacs's life and work.

D. Section on Islamic Law, Co-Sponsored by Section on Family and Juvenile Law: *Legal Issues Arising Out of Marriage and Divorce in Islam*

Saturday, January 7, 2012, 8:30-10:15 a.m.

Maryland Suite B, Lobby Level, Washington Marriott Wardman Park Hotel

Moderator: Russell Powell, Seattle University School of Law

Speakers: Mark E. Cammack, Southwestern Law School
Arzoo Osanloo, Associate Professor, University of Washington,
Law, Societies, and Justice Program
Seval Yildirim, Whittier Law School

Family law (including marriage, divorce, parental rights, and inheritance) is a core foundation of any legal system. In Islamic jurisprudence it has a special character, rooted in sacred texts and tradition. Panelists will consider critical questions related to marriage and divorce in three jurisdictions. Professor Cammack will explore the role of “adat” (a form of local customary law) in family law in Indonesia, Professor Yildirim will consider the treatment of Islamic family law norms in Turkey (with a particular emphasis on polygamy), and Professor Osanloo will address developments in Iranian divorce law.

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 **Friday, January 6, 2012, at 10:15 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 Chair Elect (Paul Horwitz) 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.*

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

Co-Chairs-Elect:

B. Jessie Hill (Case Western), Bernadette Meyler (Cornell)

Program Committee Co-Chairs:

Richard Albert (Boston College), John Inazu (Washington University)

Nominating Committee Co-Chairs:

Zachary Calo (Valparaiso), Caroline Mala Corbin (Miami)

III. 2011 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 2011. In accordance with the Section By-Laws, the Chair Elect, Nelson Tebbe, automatically became the Chair at the conclusion of the business meeting. Additional members of the Executive Committee for 2011 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 2011.

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At-large Executive Committee Member
 John Marshall Law School

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

Program Committee: B. Jessie Hill (Co-Chair, Case Western), Bernadette Meyler (Co-Chair, Cornell), Zachary Calo (Valparaiso), Nathan Chapman (Stanford), Michael Helfand (Pepperdine), Mark Scarberry (Pepperdine), Thomas Berg (St. Thomas).

Nominating Committee: Mark Movsesian (Co-Chair, St. John's), Frank Ravitch (Co-Chair, Michigan State), Joel Nichols (St. Thomas), Samuel Levine (Touro), Marc DeGirolami (St. John's), Caroline Mala Corbin (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 2011. 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 Paul Horwitz, the 2011 Chair Elect and Newsletter Editor, about any necessary corrections for next year's newsletter. Special thanks to University of Alabama law student Noah Jones for his assistance in compiling this bibliography.

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