

EDITOR'S PREFACE TO THE AALS SECTION ON PROFESSIONAL RESPONSIBILITY 2006 ANNUAL MEETING PAPERS

Marie A. Failing[†]

On January 5, 2006, the American Association of Law Schools Section on Professional Responsibility hosted a section meeting on the Professional Responsibility and the Religious Traditions. The purpose of the meeting was to introduce law professors to a deeper understanding of the influence of religious traditions on the shaping of the modern understanding of the role of the lawyer in social life, their viability as traditions for critique of professional norms and practices, and the expectations these traditions set for the ethical behavior of lawyers, particularly those who come out of these traditions.

The conference began with the assumption that, before secular rules of professional responsibility came to regulate American lawyers, their religious traditions provided a rich body of narratives, values and rules about the nature of the lawyer's calling, his or her role in society, and expectations for ethical conduct. The organizing assumption of the program was that these traditions of professional responsibility, while they share many common assumptions, also interpret the lawyer's role and responsibilities in distinctive ways.

Those who addressed the question of how Christian, Jewish and Muslim traditions viewed the role of the lawyer and his/her ethical responsibilities included Thomas L. Shaffer, Robert E. and Marion Short Professor Emeritus, Notre Dame Law School; Samuel J. Levine, Associate Professor of Law, Pepperdine University School of Law; Moushumi Khan, attorney at law, New York City; and Susan R. Martyn, Stoepler Professor of Law & Values, University of Toledo College of Law. G. Randy Lee from Widener Law School served as the panel moderator.

In this panel, Levine described the dearth of attention to lawyers in the Jewish tradition, and identified a number of technical and tactical issues where Jewish attorneys might encounter a conflict between their faith tradition and professional expectations, noting also Jewish ethical

[†] Editor, *Journal of Law and Religion*; Professor of Law, Hamline University School of Law, St. Paul, Minnesota.

responsibilities for pro bono and other responsive lawyering. Shaffer discussed the role of Catholic law schools in the professional advancement of immigrant lawyers, and the conflicts between communitarian/familial norms in these traditions and American professional life. Khan discussed the importance of forthright advocacy against injustice in Islam, her experiences in helping Muslim clients, and the ethical complexities involved for Muslim lawyers attempting to be faithful to their faith traditions as well as their ethical responsibilities as American lawyers. Martyn described the role of the lawyer serving the needs of the neighbor in light of Martin Luther's two kingdoms doctrine.

The second panel, moderated by Professor Irma Russell from Memphis University, focused on the question of whether American professional responsibility teachers could adapt the teachings of these religious traditions in a religiously pluralistic Professional Responsibility classroom and what some cautions might be in utilizing these traditions. Among the panelists for this part of the program were Robert F. Cochran, Jr., Louis D. Brandeis Professor of Law, Pepperdine University School of Law; Nancy B. Rapoport, Dean, University of Houston Law Center; Rodney K. Smith, President, Southern Virginia University; Russell G. Pearce, Fordham University School of Law; and Bruce A. Green, Louis Stein Professor of Law, Fordham University School of Law.

Cochran described how evangelical Christian theology and values can be brought to bear on decisions about selecting clients, and counseling clients using the metaphor of friendship. Rapoport related the difficulties and value of opening opportunities for students to discuss resolution of ethical conflicts utilizing sources from their faith traditions. Smith recounted the history of the LDS church in the U.S. and the theological values that shape LDS lawyers' response to their clients' needs. He underlined the notion that clients, adversaries, and other lawyers must be seen as brothers and sisters, and candor and love must be the hallmark of lawyers' work. Green described difficulties with religious approaches to practice, including the problems of value conflicts, accessibility of religious justifications to non-believers, and the ability to critique religious values and decisions. Pearce emphasized the role of religious commitments in the search for meaning in professional practice.

The participants in this program were invited to submit formal papers for publication in the *Journal*. The papers of Professors Shaffer, Martyn, Green, and Pearce in collaboration with his colleague Amelia Uelmen from Fordham follow. We believe that these papers will be an

important contribution to the *Journal's* ongoing commitment to help practicing lawyers engage the deep questions in living out of their religious and professional commitments as they engage in their work.