



SCHOOL
OF LAW



State-Sponsored Religious Displays in the U.S. and Europe

L'esposizione statale di simboli religiosi negli Stati Uniti e in Europa



Friday, June 22, 2012

LUMSA
Complesso del Giubileo
via di Porta Castello, 44 – Roma



Center for Law
and Religion

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Stati Uniti e in Europa



8.30 – 9

Coffee and Welcome

9 – 9.40

Conference Introduction

Silvio Ferrari
University of Milan Department of Law

9.40 – 9.50

Break

9.50 – 11.30

Panel 1: Cultural or Religious? Understanding Symbols in Public Places

Thomas C Berg
University of St. Thomas (Minnesota) School of Law

Carlo Cardia
Roma Tre University Faculty of Law

Eduardo Gianfrancesco
LUMSA Department of Law

Francesco Margiotta Broglio
University of Florence Faculty of Political Science

11.30 – 11.45

Coffee Break

11.45 – 13

Panel 2: The *Lautsi* Case and the Margin of Appreciation

Monica Lugato
LUMSA Department of Law

Marc O. DeGirolami
St. John's School of Law

W. Cole Durham, Jr.
Brigham Young University Law School

13 – 14.30

Lunch

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14.30 – 16.15

Panel 3: State-Sponsored Religious Displays in Comparative Perspective

Hon. Diarmuid F. O'Scannlain
U.S. Court of Appeals for the Ninth Circuit

Paolo Cavana
LUMSA Department of Law

Mark L. Movsesian
St. John's School of Law

Sophie C. van Bijsterveld
Tilburg University School of Humanities

16.15 – 16.30

Break

16.30 – 17.15

Conference Conclusion

Giuseppe Dalla Torre
Rector, LUMSA University



Speaker Biographies





Thomas C. Berg

Thomas C. Berg is the James L. Oberstar Professor of Law and Public Policy at the University of St. Thomas (Minnesota) School of Law, where he teaches and writes on constitutional law, religious liberty, law and religion, and intellectual property. He is the author of four books, dozens of scholarly and popular articles, and numerous briefs in the U.S. Supreme Court and lower courts. He has served as the law school's associate dean for academic affairs and director of its Terrence J. Murphy Institute for Catholic Thought, Law, and Public Policy. He has degrees from the University of Chicago, in both law and religious studies; from Oxford University, in philosophy and politics (as a Rhodes Scholar); and from Northwestern University, in journalism.



Carlo Cardia

Carlo Cardia is Professor of Ecclesiastical Law at the University of Rome. He has taught canon law and philosophy of law, among other subjects, at the Universities of Cagliari and Pisa, as well as the Superior Institute of Police, and the School of Public Administration. He was a member of the Constitutional Council of the President of the Chamber of Deputies from 1976 to 1979 and participated in the reform of the Concordat between the Holy See and Italy in 1976-1979 and 1984-85. In 1984, as a member of the Governmental Commissions for the Performance of the Concordat and Religious Freedom, he co-authored new Italian ecclesiastical legislation. From 2006-2007, he was Chairman of the Scientific Committee for the Drafting of the Charter of the Values of Citizenship and Integration, appointed by presidential decree of the Minister of Interior. He worked to change the 2009 judgment of the Strasbourg Court on the crucifix, arguing in favor of exhibiting the crucifix in public schools; the Grand Chamber ultimately accepted this position in 2011. He is Consultant for the Pontifical Council for Legislative Texts. His major works include *Ateismo e libertà religiosa* (1973); *Il Diritto di famiglia in Italia* (1976); *La riforma del Concordato* (1980); *Il Governo della Chiesa* (1984); *Stato e Confessioni religiose* (1988); *Manuale di diritto ecclesiastico* (1996-2004); *Ordinamenti religiosi e ordinamenti dello Stato* (2003); *Principi di diritto ecclesiastico: Tradizione europea, legislazione italiana* (2003-2005); *Genesi dei diritti umani* (2003-2005); *Le sfide della laicità: Etica, multiculturalismo, islam* (2007); *La Chiesa tra storia e diritto* (2010); *Identità religiosa e culturale europea: La questione del crocifisso* (2010) (translated to Russian, 2011); and *Risorgimento e religione* (2011).



Paolo Cavana

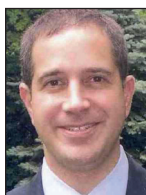
Paolo Cavana was graduated in Ecclesiastical Law (Law and Religion) at the Faculty of Law of the University of Bologna. He received his PhD in Canonical Doctrines at the University of Turin. For the academic years 1993-95, he won a post-doctorate scholarship at LUMSA to study the importance of religion in scholastic rules (law) and the principle of laïcité in French experience. Afterwards, he obtained a license in Canon Law from the Pontifical Lateran University, where he was graduated in Canon Law. In 1998, he won a state competitive examination for a position as University Researcher in Canon and Ecclesiastical Law. In 2003, he qualified to become Associate Professor in Ecclesiastical and Canon Law at LUMSA's Palermo campus, where he also taught Constitutional Law and the History of Church-State Relations. Since 2010, he has taught Ecclesiastical Law and Comparative Ecclesiastical Law at LUMSA's Rome campus. He is the author of numerous publications on legal regulation of religion, both in Italy (*Gli enti ecclesiastici nel sistema pattizio*, 2° ed., 2011) and in comparative perspective (*Interpretazione della laicità. Esperienza francese ed esperienza italiana a confronto*) (1998); *I segni della discordia. Laicità e simboli religiosi in Francia* (2004).





Giuseppe Dalla Torre

Giuseppe Dalla Torre graduated in Law at the University of Rome “La Sapienza” in 1967 and took a further degree in Canon Law at the Pontifical Lateran University in 1968. He began his own research at the University of Modena and went on to become assistant lecturer at the University of Bologna. In 1980, he won an open competition to become a full professor. From 1980 to 1990, he lectured in Ecclesiastical Law at the Law Faculty of the University of Bologna. He also held a temporary post lecturing in Constitutional Law from 1987 to 1990. At present, he is the Rector of LUMSA, where he has taught Institutions of Public Law and lectures in Ecclesiastical Law and Canon Law. He also lectures in Relations between the Church and the Political Community at the Pontifical Lateran University. He participated, as secretary of the government delegation, in the work of the Joint Committee for the Revision of the Concordat between Italy and the Holy See (1976 – 1983). He is Vice-President for Regional Coordination of the Universities in Lazio (CRUI), a member of the Board of Directors of the Pediatric Hospital, “Bambino Gesù,” a member of the Board of Directors of the Fondazione Accademica of Santa Cecilia, President of the Court of Vatican City, and consultant for pontifical ministries. He has produced over four hundred academic publications, including monographs and essays, on Canon Law, Italian Ecclesiastical Law and Public Law.



Marc O. DeGirolami

Marc O. DeGirolami is Associate Professor of Law and Assistant Director of the Center for Law and Religion at St. John’s School of Law. His scholarship focuses on law and religion, constitutional law, and criminal law. His book, *Tragedy and History: The Quality of Religious Liberty*, is forthcoming from Harvard University Press. His papers have appeared in various journals, including *Constitutional Commentary*, *Legal Theory*, the *Ohio State Journal of Criminal Law*, the *Boston College Law Review*, as well as many others. He is a member of CLR Forum, a law-and-religion website he helped found, as well as the popular legal blog, *Mirror of Justice*. He received an A.B. from Duke University, an M.A. from Harvard University, a J.D. from Boston University, and an LL.M. and J.S.D. from Columbia University. Following law school, he clerked for Judge William E. Smith of the U.S. District Court for the District of Rhode Island and Judge Jerome Farris of the U.S. Court of Appeals for the Ninth Circuit. He has been a fellow at Columbia Law School and a visiting professor at Catholic University’s Columbus School of Law.



W. Cole Durham, Jr.

A graduate of Harvard College and Harvard Law School, where he was a Note Editor of the *Harvard Law Review* and Managing Editor of the *Harvard International Law Journal*, Professor Durham has been heavily involved in comparative law scholarship, with a special emphasis on comparative constitutional law. He is currently the President of the International Consortium for Law and Religion Studies (Milan) and a Co-Editor-in-Chief of the *Oxford Journal of Law and Religion*. From 1989 to 1994, he served as the Secretary of the American Society of Comparative Law, and he currently serves as an Associate Member of the International Academy of Comparative Law (Paris). He served as a General Rapporteur for the topic, "Religion and the Secular State," at the 18th International Congress of Comparative Law in July 2010. He has served as Chair of the Comparative Law and Law and Religion Sections of the American Association of Law Schools. He has taught at the Brigham Young University Law School since 1976, and was awarded the honorary designation of University Professor there in 1999. Since 2000, he has been Director of the International Center for Law and Religion Studies at BYU. Since 1994, he has also been a Recurring Visiting Professor of Law at Central European University in Budapest, where he teaches comparative constitutional law to students from throughout Eastern Europe, and increasingly from Asia and Africa as well. He has been a guest professor in Gutenberg University in Mainz, Germany and at the University of Vienna. In January 2009, he received the International First Freedom Award from the First Freedom Center in Richmond, Virginia. He has worked on numerous constitutional and legislative drafting projects around the world and has been particularly active in the area of church-state relations. He serves as a member of the OSCE/ODIHR's Advisory Council on Freedom of Religion or Belief. He has authored numerous books and law review articles on religious liberty and comparative law, including *Religion and the Law: National, International and Comparative Perspectives* (2010) (with Scharffs) and *Religious Organizations and the Law* (with Bassett and Smith), an annually updated treatise published by Thompson Reuters/West.



Silvio Ferrari

Silvio Ferrari is Professor of Canon Law at the University of Milan. He holds numerous other academic positions, including Professor of the Comparative Law of Religions at the Faculty of Theology (Lugano), Professor of Law and Religion at the University of Strasbourg, and Professor of Law and Religion at the University of Leuven. He received his law degree from the Catholic University of Milan and did postgraduate work at the British Library, Hebrew University, and Columbia University. He has been a visiting professor at many institutions, including the École Pratique des Hautes Études and the University of California-Berkeley. He consults with many international organizations, including the OSCE, and is president of the International Consortium for Law and Religion Studies. His main research fields are Law and Religion in Europe, the Legal Status of Islam in Europe, Religious Liberty and Human Rights, the Comparative Law of Religions, and Israeli-Vatican Relations. He has written and edited numerous books and articles, including *Law and Religion in the 21st Century* (2010) (with Cristofori), *Introduzione al diritto comparato delle religioni* (2008) and *Law and Religion in Post-Communist Europe* (2003) (with Durham and Sewell).



Eduardo Gianfrancesco

Eduardo Gianfrancesco is Professor of Constitutional and Public Law at LUMSA's Department of Law, where he started in 2008. Previously, he taught Constitutional Law, Public Law, Parliamentary Law, Public Law of Economics, and Constitutional Justice at the Universities of Rome "Tor Vergata" (Researcher, 1996-2001); Lecce (Contract Professor, 1999-2000); and Teramo (Associate Professor, 2001-2005; Professor, 2005-2008). He is a member of the Italian Association of Constitutionalists (AIC), ASTRID (Association for Study and Research on the Reform of Democratic Institutions and Innovation of Public Administration), the Directorial Committee of the Italian journal, *Teoria del Diritto e dello Stato*, the Scientific Board of the Centro studi e ricerche di diritto parlamentare of the Sicilian Regional Assembly (ARS), and the Istituto di Studi sui Sistemi Regionali Federali e sulle Autonomie (ISSIRFA) Massimo Severo Giannini of CNR (National Research Council). He has served as an advisor for the Guarantee Commission for Implementation of Law No. 146/1990 regarding strikes in essential services, and the Italian parliamentary parties, "Margherita - DL - L'Ulivo" and "L'Ulivo." In 1999-2000, he was an assistant to Mr. Judge Massimo Vari of the Italian Constitutional Court.



Monica Lugato

Monica Lugato is Professor of International Law at the School of Law of LUMSA, where she has taught Private International Law and European Union Law and presently teaches International Law. She is a Member of the Board of Supervisors for LUMSA's Doctoral Program in Fundamental Rights and Freedoms, and Assistant Dean, responsible for the International Program. She has written in Private International Law, European Union Law and International Law. Her research currently concentrates on general Public International Law and International Human Rights Law. She has published two books and various articles in leading academic journals and presented papers at national and international symposia. She is a Member of the International Law Association (Committee on recognition and non recognition) of the Italian and European Societies of International law and of the British Institute of International and Comparative Law. Professor Lugato graduated *summa cum laude* both in Political Science and in Law at the University of Rome "La Sapienza" and holds a PhD in International Law. She was previously a researcher in International Law at La Sapienza with Prof. Francesco Capotorti and associate professor of International Law at the University of Catanzaro. She has been a visiting scholar at Georgetown University and at the Institute für ausländisches und internationales Privat- und Wirtschaftsrecht of the University of Heidelberg.





Francesco Margiotta Broglio

Francesco Margiotta Broglio is University Professor in the Department of Government Studies at the Università degli Studi di Firenze. Previously, he taught at the University of Rome "La Sapienza," the University of Urbino, and the University of Parma. He has visited at the Faculté de Droit "Jean Monnet" at the University of Paris, University College London, the Institut d'Études Politiques of Paris, and Nuffield College, Oxford. He specializes in and is the author of several books and more than 250 papers involving church-state studies, religious liberty, and canon law. Between 1983 and 1987, he served on the governing committee for revision of the Concordat and for the agreement of understanding among non-Catholic religions. At present, he chairs the consultative committee for religious liberty created by the President of the Council of Ministers, the governing committee for enforcing the Accord between Italy and the Holy See, and the governing committee for the resolution of interpretive difficulties with respect to the Concordat. He is a commentator on matters of political ecclesiology for several journals, including *Corriere della Sera*, *Religione e Società* (published by Il Mulino, Bologna), *Il Resto del Carlino*, *La Nazione*, and *Il Messaggero*. He has received numerous honorary degrees and academic honors, including from the University of Paris Sud, as well as the Grand Cross of the Order of Merit of the Italian Republic.



Mark L. Movsesian

Mark L. Movsesian is the Frederick A. Whitney Professor and Director of the Center for Law and Religion at St. John's School of Law. He writes in law and religion, contracts, and international law. His articles have appeared in the *Harvard Law Review*, the *American Journal of International Law*, the *Harvard International Law Journal*, as well as many others. He has been a visiting professor at Notre Dame and Cardozo Law Schools and has delivered papers at numerous workshops in the United States and Europe. Along with his St. John's colleague Marc O. DeGirolami, he founded CLR Forum, a website on law and religion. Professor Movsesian graduated *summa cum laude* from Harvard College and *magna cum laude* from Harvard Law School, where he was an editor of the *Harvard Law Review* and a recipient of the Sears Prize, awarded to the two highest-ranking students in the second-year class. He clerked for Justice David H. Souter of the Supreme Court of the United States and served as an attorney-advisor in the Office of Legal Counsel at the United States Department of Justice. His most recent article, "Crosses and Culture: State-Sponsored Religious Displays in the US and Europe," will appear in the *Oxford Journal of Law and Religion* (forthcoming 2012).



Diarmuid F. O'Scannlain

Hon. Diarmuid F. O'Scannlain is a judge on the United States Court of Appeals for the Ninth Circuit, sitting in Portland, Oregon. He holds a J.D. from Harvard Law School, an LL.M. from the University of Virginia Law School, and a B.A. from St. John's University. Before becoming a federal judge, he was in private practice and served Oregon as deputy attorney general, public utility commissioner, and director of the Department of Environmental Quality. His professional interests include judicial administration and reform and continuing legal education. He has testified before numerous congressional committees. Judge O'Scannlain is an adjunct professor at Northwestern School of Law at Lewis and Clark College in Portland, where he teaches seminars on the Supreme Court and Appellate Practice. He has traveled to Hungary, Croatia, Belarus, New Zealand, and Australia to brief judges, government leaders, lawyers, and law students on judicial independence and ethics, the protection of human rights, and the American federal judicial system.



Sophie van Bijsterveld

Sophie van Bijsterveld graduated both in civil and in constitutional and administrative law at the University of Utrecht, after which she taught Roman law at the Free University of Amsterdam and later constitutional law at Tilburg University, by which university she became fully employed. She received a doctorate in law at Tilburg in 1988. Currently, she is Professor of Religion, State and Society at the School of Humanities. She has published extensively in the fields of (international) human rights protection, religious liberty and church and state relationships, constitutional law, and hybrid governance. Her books include: *Overheid en godsdienst: Herijking van een onderlinge relatie [State and Religion: Regauging a Mutual Relationship]* (2nd ed. 2009), *The Empty Throne: Democracy and the Rule of Law in Transition* (2002), and *Godsdienstvrijheid in Europees perspectief [Religious liberty in European Perspective]* (1998). She is a member of the Advisory Council of Freedom of Religion or Belief of ODIHR/OSCE and has been a member of the Council for Public Administration [Raad voor het openbaar bestuur] a statutory advisory body of the Dutch government and parliament. Since 2007, she has been a member of the Dutch Upper House of Parliament [Eerste Kamer der Staten-Generaal] for the Christian Democratic Party (CDA). She is also a Member of the Board of the Scientific Institute of the Christian Democratic Party in the Netherlands.

About St. John's School of Law:

The School of Law is part of St. John's University, a Catholic, Vincentian institution founded in 1870. The University comprises six schools and colleges, with campuses in New York, Paris, and Rome and a combined enrollment of approximately 16,000 undergraduate and 5000 graduate students from around the world. In addition to the School of Law, academic units include St. John's College of Liberal Arts and Sciences, the School of Education, the Peter J. Tobin College of Business, the College of Pharmacy and Health Sciences, and the College of Professional Studies. The School of Law was established in 1925. It has both a J.D. program and several LL.M. programs, including transnational programs, and research centers in bankruptcy, dispute resolution, international and comparative law, labor and employment law, and law and religion.

The School of Law established the Center for Law and Religion in 2010 with three broad goals: to examine the role of law in the relationship between religion and the state, to explore the concept of law in different religious traditions, and to encourage dialogue on law and religion in the local, national, and international communities. The center's activities include academic conferences; a web resource, CLR Forum; and a colloquium on law and religion. For more information, please contact the director, Professor Mark L. Movsesian, at Mark.Movsesian@stjohns.edu.

About LUMSA Department of Law:

The Department of Law is part of LUMSA, founded in 1939 in the heart of Rome as the Istituto Superiore di Magistero "Maria Santissima Assunta," and transformed into an accredited private university in 1987. Its distinctive blend of Catholic values, the humanistic tradition, academic rigor, and individual attention, has earned LUMSA recognition as one of the top private universities in Italy (CENSIS 2011).

The university has three Departments – Humanities, Law, and Economics; Political Sciences; and Modern Languages – that confer both undergraduate and graduate degrees. With campuses in Palermo, Taranto, and Gubbio, in addition to the main campus in Rome, LUMSA currently enrolls around 8,000 students from all over Italy. Foreign students are also present in growing numbers, mainly through the Erasmus program.

The Department of Law offers the one-cycle, five-year course in Law and an undergraduate program in Sciences of the Social Services and Non-Profits, together with a post-graduate program in Management of Social Policies and Services. The Department also includes the post-graduate School for the Legal Professions and two Ph.D. programs. It has recently established an International Program to increase the emphasis on the global dimension of legal studies. To this end, scholars and professionals from institutions throughout the world are invited to teach seminars and hold conferences for the university community each year, students are strongly encouraged to spend at least one semester in a foreign university, and the number of core classes offered in English is constantly increasing.

