LAW AND RELIGION SCHOLARS NETWORK (LARSN)

CONFERENCE AND MEETING

Centre for Law and Religion
The Law School
Cardiff University

http://www.law.cf.ac.uk/clr

Tuesday 11th May 2010

Venue: The Law Building, Museum Avenue, Cathays Park, Cardiff, CF10 3AX

PROGRAMME

From
9.30 Registration, Tea and Coffee [Senior Common Room]

10.00 Welcome, Norman Doe [Senior Common Room]

10.10 Panel A, Chair: Myriam Hunter-Henin [Room 1.29]
Panel B, Chair: Anthony Bradney [Room 1.30]

11.30 Tea / Coffee [Room 1.28]

11.40 Panel C, Chair: David Harte [Room 1.29]
Panel D, Chair: Peter Cumper [Room 1.30]

1.00 Buffet Lunch [Room 1.28]

1.40 Panel E, Chair: Paul Diamond [Room 1.29]
Panel F, Chair: Peter Edge [Room 1.30]

3.00 Tea / Coffee [Room 1.28]

3.15 LARSN Meeting, Chair: Russell Sandberg [Room 1.29]

3.30 Teaching Meeting [Room 1.29]

4.00 Close
PANELS

Panel A
Chair: Myriam Hunter-Henin

- Peter Edge: Religion as Religio in 21st Century English Case Law
- Pasquale Annicchino: Beyond art. 9. Law and Religion in the Culture Wars before the European Court of Human Rights
- Erica Howard: School Bans on the Wearing of Religious Symbols: Examining the Implications of Recent Case Law from the UK and the European Court of Human Rights
- Javier Oliva & Santiago Cañamares: Religious symbols in Spain and Italy

Panel B
Chair: Anthony Bradney

- Julian Rivers: The Legal Position of Ministers of Religion
- Sylvie Langlaude: The Rights of Religious Associations to Self-Governance: Developments before the OSCE and the Council of Europe
- Grazyna Kolondra: The Impact of Political, Cultural, and Social Transformation in Italy in Drafting the 1984 Agreement of Villa Madama

Panel C
Chair: David Harte

- Norman Doe: Anglican Juridical Perspectives on the New Papal Law Anglicanorum Coetibus
- Anna Gianfreda: “Religious offences” in Italy after the law n. 85/2006. A return to the past?
- Quentin Gelder: Current Legislative & Jurisprudential Challenges to the Seal of the Confessional
- Sharon Hanson: Re-imaginings: Religions, Secularisms and Law
Panel D
Chair: Peter Cumper

- Lucy Vickers: The Public Sector Equality Duty and Religion
- Peter Phillips: What Do Anglican Chaplains Think They’re Doing In The 21st Century?
- Werner de Saeger: Law and Religion in Israel: The Debate on Jewish Identity

Panel E
Chair: Paul Diamond

- Russell Sandberg: The Two Pillars of Religion Law
- Alison Mawhinney and Yuko Chiba: Opting out of Religious Education: The Views of Young People from Minority Belief Backgrounds
- Rhonda Hammond Sharlot and Juliet Hogsden: A Taxing matter for the Church of England
- Rossella Bottoni: Legislation on Religious Slaughter in the European Union Member States and Candidate Countries

Panel F
Chair: Peter Edge

- Eithne D’Auria: Pellegrini v Italy
- Javad Gohari: "Jurisprudential Underpinnings of the ECHR and Shariah Law"
- Zachary R. Calo: Pluralism, Secularism and the European Court of Human Rights
- Naveed Ahmed: Islamic Finance: A Substitute To Traditional Finance And Some Suspicions About Its Future
ABSTRACTS

Panel A

Peter Edge
Religion as Religio in 21st Century English Case Law.
Peter W Edge, Oxford Brookes University, pwedge@brookes.ac.uk

Feil defines religio as “the careful and even fearful fulfilment of all that man owes to God or Gods” (Feil, 1989). This paper considers whether the 21st century definition of religion in the emerging English case law – particularly in relation to cases based on Article 9 or religious discrimination - is unduly influenced by religio.

Pasquale Annicchino
Beyond art. 9. Law and Religion in the Culture Wars before the European Court of Human Rights

The emergence of nation states in Europe was accompanied by the recurring conflicts between Catholics and anticlerical forces. From schools to universities, from marriage to gender relations and symbols of the nationhood those conflicts involving religious or anti-religious feelings were central in the definition of the new cultural frameworks. Those culture wars putted values and collective values at stake. Today the actors are different, but the same conflicts involving the interaction of Law and Religion remain. The great promise of secularisation has not been maintained and Europe is facing in courts the legal dilemmas created by a society increasingly pluralistic. As Justice Holmes once claimed “All of the great questions of theology and philosophy, and of society and culture ultimately must come to the law for their resolution”. From same-sex marriages to gender roles and family values to abortion and Islam, pending cases before the ECtHR show that there is a wider world worth inquiring in the interaction of Law and Religion in the European arena beyond the traditional patters involving the interpretation of art. 9 of the Convention. This paper aims at setting the stage for further inquiries in the field.

Erica Howard
School Bans on the Wearing of Religious Symbols: Examining the Implications of Recent Case Law from the UK and the European Court of Human Rights

Is a ban on the wearing of religious clothing in schools a violation of the right to manifest one’s religion as guaranteed by Article 9 European Convention for the Protection of Human Rights and Fundamental Freedoms? The case law of the European Court of Human Rights and of the English courts in relation to such bans in education suggests that such bans can be considered an interference with the right to manifest one’s religion under Article 9(1), but that these bans can be justified under Article 9(2) in certain circumstances.

Two important considerations in the decision of the courts on the question whether such bans are justified are, firstly, the way decisions to ban certain forms of religious dress are made
and, secondly, whether alternative ways of manifesting the religion are available to the person concerned.

Dr Erica Howard  
Senior Lecturer  
Law Department  
Middlesex University  
The Burroughs  
London NW4 4BT  
United Kingdom  
+44 2084114585  
e.howard@mdx.ac.uk

Javier Oliva & Santiago Cañamares

Religious symbols in Spain and Italy

Dr Santiago Cañamares (Universidad Complutense de Madrid)  
Dr Javier Oliva (Bangor University; Research Associate at the Centre for Law and Religion, Cardiff University)

The use of religious symbols is, undoubtedly, one of the most important challenges which western societies are facing nowadays. In this joint presentation, an analysis of the Spanish and Italian experiences will be carried out. This study will focus on both the use of religious clothing and the presence of religious symbols in the public arena. Spain and Italy share a common religious and cultural tradition, as well as a similar constitutional framework and an almost identical system of religious pluralism. However, the responses on the part of their courts, especially in relation to the presence of religious symbols (e.g. the crucifix), have been significantly different. Bearing this in mind, the case law of the European Court of Human Rights is to be consulted, mainly the most recent decisions (Kervanci v. Francia (2008) and Lautsi v. Italy (2009)).

Panel B

Julian Rivers

The Legal Position of Ministers of Religion

The legal position of ministers of religion has been subject to rapid reappraisal in recent years. The law has shifted from a presumption that there is no intention to create (civil) legal relations to an acceptance that an employment contract may well present. All this has taken place without reference to the traditional approach of English law to ministers of religion or the law of organized religions more generally. This reappraisal in turn has raised problems in relation to employment equality legislation. In this paper I consider the state of play after the decisions in Percy and Stewart, as well as the Equality Bill – and possibly Act – 2010, as well as what the changes tell us about the changing place of religion in English law.
John Duddington

The employment status of ministers of religion in the light of the debate on the role of the State in the affairs of Churches

This paper considers the current state of play in the continuing debate on the employment status of ministers of religion: employees versus office holders. At present we have continuing developments in case law particularly Percy v Church of Scotland Board of National Mission (2005) UKHL 73 and New Testament Church of God v Stewart (2007) IRLR 178. In addition there are parallel developments in response to a Government promoted initiative to bring clergy within the scope of employment law using s.23 of the Employment Relations Act 1999.

This paper considers the issues against the background of the continuing debate on the extent to which the State can and should intervene in the internal affairs of churches, for example the constitutional status of the Church of Scotland as guaranteed by the Church of Scotland Act 1921. Moreover there is a wide divergence of opinion and practice amongst the churches on the question of whether their ministers should have the status of employees.

It suggests that a possible way forward might be adoption by the state of a system of personal law under which individual churches would have the right to set their own standards on employment rights for their ministers subject to fundamental principles of fair treatment set by the state. This opens up the debate on whether this should be part of a wider settlement between churches and the state in which the proper role of each in relation to each other is laid down.

Sylvie Langlaude

The Rights of Religious Associations to Self-Governance: Developments before the OSCE and the Council of Europe

This paper traces out developments affecting the rights of religious associations to internal ordering/self-governance before the OSCE and the Council of Europe. These developments include the right to maintain their internal integrity when faced with an internal schism, the right to own and dispose of their property, the right to employ foreign personnel as well as the right to discipline their personnel, and rights over financial resources.

Grazyna Kolondra

The Impact of Political, Cultural, and Social Transformation in Italy in Drafting the 1984 Agreement of Villa Madama

Grazyna Kolondra
Postdoctoral Scholar, Robbins Religious and Civil Law Collection
Boalt Hall School of Law, UC Berkeley
202-344-0311 or gk3uvalaw@gmail.com

I examined how political, social, and cultural transformation in Italy affected the articulation of the canonical concept of the “right of defense.” I argue that the phrase “right of defense” can be truly understood best in light of the following: 1) the 1929 Lateran Pacts signed
between the Supreme Pontiff Pius XI and the King Victor Emmanuel III of Italy; 2) the political changes that took place in Italy subsequent to the adoption of the 1947 Constitution of Republic of Italy; 3) the enactment of legislation on divorce in 1970 and on abortion in 1978; 4) the Italian Constitutional Court opinions declaring unconstitutional the provisions of the 1929 Concordat; 5) the jurisprudence of the Court of Cassation, which declared illegitimate the proceedings articulated in the 1929 Concordat on enforcement of ecclesiastical judgments and inadequate protection of due process; 6) Article 797 of the Italian Code of Civil Procedure; 7) the Italian Parliamentary discussions that took place from January 25 to January 27, 1984 regarding the revision of the Lateran Concordat; 8) the 1984 Agreement between the Holy See and Italy, which was preceded by the promulgation of the 1983 Code of Canon Law containing canons 221 and 1620 on the right of defense.

Panel C

Norman Doe

Anglican Juridical Perspectives on the New Papal Law Anglicanorum Coetibus

The Apostolic Constitution, Anglicanorum coetibus, and its Complementary Norms, approved by Pope Benedict XVI on 4 November 2009, provide for the foundation of personal ordinariates for Anglicans seeking full communion with the Latin Church. From an Anglican perspective, this development raises a host of fascinating practical and juridical questions. This short paper deals with three issues: (1) responses to the Apostolic Constitution, especially Anglican responses; (2) the Apostolic Constitution itself, with particular reference to Anglican canonical categories within it (such as that of the Anglican Communion and its patrimony); and (3) some relevant legal provisions of or applicable to Anglican Churches which may either obstruct progress or facilitate progress around the initiative. The paper ends with brief conclusions.

Anna Gianfreda

“Religious offences” in Italy after the law n. 85/2006. A return to the past?

Religious offences in Italy have been reformed in 2006 by an act concerning opinion crimes. This paper examines the implications of such a change, namely the reform of some religious vilification offences.

The first part deals briefly with the historical evolution of religious offences in Italy during the twentieth century, analysing especially the development of their scope.

The second part of the paper aims to explore the extent of the actual religious offences, and maintains that there is no substantial innovation, with the exception of the recognition of equal protection of all religions. The law leaves untouched the ancient blasphemy offence and seems to convert the rationale for protection into the model existing before the adoption of the Republican Constitution in 1945. The reform has thus resulted in an anachronistic form of protection, which partly contradicts the Constitutional case law on religious offences and blasphemy.

In conclusion, this paper argues that the examined reform focuses – like it happened in the past - on the institutional aspect of the religious phenomenon. In other words, the criminal
law protects from insults and blasphemy all religious organized groups, their sacred ministers, their sacred objects and their religious beliefs, as abstract values. In contrast, the dimension of individual religious freedom is totally neglected.

Quentin Gelder

Current Legislative & Jurisprudential Challenges to the Seal of the Confessional

The Seal of the Confessional is a well-understood concept, and in many cases formally recognized in Statute Law or Jurisprudence.

Today, though, for a variety of reasons, the concept is under attack - whether overt or implicit - in the alleged interests of a variety of third-party rights which are seen as more important to 'society' in general.

This paper reviews the history of the Seal's widespread acceptance, and then examines various ways in which the Seal is currently threatened, particularly in the US, and considers in general and specific terms the effect of compromise of the inviolability of the Seal.

Sharon Hanson

Re-imaginings: Religions, Secularisms and Law.

Sharon Hanson; Canterbury Christ Church University sharon.hanson@canterbury.ac.uk

I have argued elsewhere that secular law can be seen as a form of implicit religion templated by the dominant religious forms of the society in which it has emerged.

It is now appropriate to turn to the forms of the secular and view “secular” as a problematic term. British liberal secularism values the relocation of religion to the private, the separation of church and state, the universality and neutrality of secular reason and above all the prohibition of religious discourse in the public square. But it is not the only form of secularism. There are many secularisms in a range of nation states springing from other religions. Individual secularisms begin to be seen to be less universal, and at root to possess foundational myths of a metaphysical nature. To counteract the inadequacies of existing secularisms, theoretical secularisms have been developed that insinuate the possibility of metaphysical arguments being debated in the public square. This is done through the merging of the public and private identities of individuals and groups, with discourse conducted with respect, generosity, reciprocity and trust as policy issues are discussed from a range of perspectives including that of religious particularities.

This interrogation of secularisms is of the utmost importance. It enhances understanding of the complexity of the religion – secular binary, and legitimates criticism of secular formations. It also forms part of the consideration of how alternative frameworks for mediating the relationship between religion and law can be developed. As frameworks change, law, as the power discourse of the state, will also be changed.
Panel D

Lucy Vickers

The Public Sector Equality Duty and Religion

The paper will assess the concept of the duty on public authorities, in the exercise of their public functions, to have due regard to the need to eliminate discrimination, harassment, victimisation on grounds of religion and belief; and advance equality of opportunity and foster good relations between people of different religions (and none). It will consider what such a duty may look like, as well as identifying some potential difficulties the duty may give rise to. It will argue that the potential difficulties of such a duty may be lessened if it is based overtly on a concept of equality which aims to address disadvantage.

Lucy Vickers
Oxford Brookes University

Peter Phillips

What Do Anglican Chaplains Think They’re Doing In The 21st Century?

In the expanding literature about prisons, little attention has focussed on the contemporary Anglican chaplain, a statutory appointment to prisons since 1823. This is perhaps because (s)he falls between the two stools of criminology and theology. Early chaplains left copious records of their work, both self authored and reported. This paper will consider how we might set about locating the chaplain’s current role in circumstances which, although very different in many observable ways, share some underlying features with the earlier period. This is not, however, an intentionally comparative paper. It will refer to the early 19th century narratives and try to suggest an epistemology for today. I shall attempt to define Anglican prison chaplaincy in relation to the unending secularisation debate and to the relatively recent emergence of penal policy as a public, political issue.

My research is qualitative, based on loosely structured interviews. It therefore makes no pretence of objectivity but seeks to replicate the 19th century prototypes in a more obviously secular context.

Rachel Severn

Charity Law and Public Benefit: a review of opinion and reflection on the challenges for Christian Religious Order Charities

This study focuses on the Charities Act 2006, and removal of the presumption of public benefit, which presents unique challenges for religious order charities and, specifically, contemplative orders.

Based on dissertation research, this paper examines three specific issues:

- The meaning of ‘charity’;
- Reactions to the Act from religious, academics and legal professionals;
- Findings from a survey of fourteen Christian religious communities.
This new research obtains factual information concerning the effect of the legislation on Christian contemplative religious orders, advances understanding of the challenges faced, and examines concerns in consequence of the legislation.

Research methods consist of a review of academic and legal opinion, combining published material with the collection and analysis of survey and interview based empirical data.

The study reveals that the concept of ‘charity’ has for religious a profoundly different meaning from that held in law. This will continue as a tension for these charities. No consensus could be found as to the efficacy of the Act or the Charity Commission’s interpretation of it, and while analysis reveals that religious orders demonstrate significant public benefit, the legislation has weakened their position within the sector.

In conclusion, given the divergence between society and these charities, continued education through reporting, dialogue and engagement with the authorities is essential if their contribution to society is to be understood and protected.

Werner de Saeger

Law and Religion in Israel: The Debate on Jewish Identity

Since its independence in 1948, Israel was to be a safehaven for Jews from all over the world. Yet if the country wanted to welcome all Jews, the Israeli authorities needed to define exactly who was to be accepted as a Jew. This issue has known a specific evolution yet it has not been entirely resolved and therefore still causes fierce debate, as the legal consequences of one’s personal status are not neglectable. Who is ‘Jewish’ enough for immigration matters? Those who are Jewish according to halakha, or those who can convince government officials of their Yiddishkeit? What is the influence of Jewish theology in this controversy? And apart from the law of return and immigration matters, what about those who are already in the Holy Land? In 2009, a major conversion crisis broke out, with a far-reaching impact for all citizens involved. How are Jewish theology and secular law related in Israel, how did it come so far, and what is to be done to resolve the enmity that separates a nation? Finally, I will discuss how the Israeli Supreme Court deals with the issues concerning religion and the rule of law.

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The 3 points I would like to discuss in my contribution:

- Law and religion in Israel: a short introduction, with a focus on matters of Jewish identity.
- The law of return, a historical overview and analysis.
- The 2009 conversion crisis and its consequences.

Panel E

Russell Sandberg

The Two Pillars of Religion Law

At last year’s LARSN conference I presented a paper suggesting that one way of understanding ‘law and religion’ was to regard it as the (overlapping) study of (a) national and international laws affecting religion (which may be called ‘religion law’) and (b) the
laws, rules and regulations of religious bodies themselves (which may be called ‘religious law’).

Building upon this analysis, this paper asks what is distinctive about religion law and whether it can be seen as an area of law akin to family law, education law, sports law etc. The paper proposes that the law on religious freedom stemming from Article 9 of the European Convention on Human Rights and the law prohibiting discrimination on grounds of religion or belief may be seen as the two pillars of religion law. Are these provisions best regarded as being aspects of human rights law and discrimination law respectively or is it now meaningful to talk of the category of religion law?

_Opting out of Religious Education: The Views of Young People from Minority Belief Backgrounds_

In the UK, as in many other countries where religious education has a place in the education system, the right of parents to withdraw their children from such teaching (and related activities such as school worship) on grounds of conscience is enshrined in domestic law and in international human rights law. Such law considers that the existence of a right to opt is sufficient to respect and protect the freedom of thought, conscience and belief of these students and parents. This paper offers preliminary findings from a one year research project (funded by the AHRC Religion and Society programme, end date October 2010) which examines the views and experiences of young people of minority belief with respect to opt-out policies and provision in schools. The research questions include: how do young people from minority belief backgrounds experience opt out provision from religious education in schools? In what ways do they believe opting out respects and protects their right to thought, conscience and religion? What factors influence the decision to opt out (or not) of religious education? These questions are explored through interviews with young people from minority belief backgrounds (aged 13 to 18) as well as through interviews with parents.

_Rhonda Hammond Sharlot and Juliet Hogsden_

_A Taxing matter for the Church of England_

This paper focuses on the finance system used by the Church of England to facilitate payment of clergy stipend – the diocesan quota system – commonly known as the Parish Share.

This system, which has been in use for many years, is viewed as an obligation by most Parishes, and appears to have the characteristics of a tax – indeed Norman Doe refers to it as a voluntary tax - a challenging concept. The paper maps the characteristics of the Parish Share system against the various definitions of tax, both from case law, and other disciplines.

The paper then continues to observe that, despite the tax like qualities of the system, there is no statutory authority for it, either in main stream Acts of Parliament, or in Church of
England Legislation, and yet most Parishes view it as an obligation. The authors will examine why the Parishes feel this obligation.

Despite there being no statutory basis for the payments, the system is acknowledged in both Church of England Measures and in case law. More surprisingly a whole review of deployment of the clergy in the 1970’s, which gave rise to the currently used ‘Sheffield formula’ for calculating the entitlement to clergy for each geographical area, was based on the Parish Share system, showing that not only do the Parishes themselves accept the validity of the system, but it has become almost institutional.

Finally the paper argues that – possibly because the system evolved in a very different economic climate, and because there is no statutory basis, there has been no review, the system does not work at all in current times – indeed leads to a situation where the finances of most Dioceses in England are works of fiction, showing massive accruals that will never in reality be collected. The fact the system has become meshed into the whole institution makes it difficult to review, as to do so would necessitate reviewing other systems that do work, but this does not preclude the fact it needs review.

The Authors

Rhonda Hammond-Sharlot LLB LLM is a Senior Lecturer in Law at Staffordshire University and a post graduate student at Cardiff University.

Juliet Hogsden BA ACA ATII is a Lecturer in Accountancy at Derby University and an Associate Lecturer with the Open University

Rossella Bottoni

Legislation on Religious Slaughter in the European Union Member States and Candidate Countries

States’ legal provisions concerning religious slaughter differ from Jewish and Islamic religious rules. Lawmakers have especially regulated the features of religious slaughter that most contrast with States’ legislation on slaughter, such as the prohibition on stunning animals before slaughter, which is upheld by orthodox Jewish communities and a number of Muslim ones.

Today’s regulation of religious slaughter is based on two conflicting principles. On the one side, there is an increasing awareness of animal welfare, which has led lawmakers to prohibit slaughter without previous stunning, on the grounds that it inflicts unnecessary pain. On the other side, there is the protection of the fundamental human right to religious freedom. When a State has regarded the carrying out of religious slaughter as one of the rights comprised by the concept of religious freedom, then it has also allowed a derogation from the requirement to stun animals before slaughter for religious reasons.

This paper aims to offer some remarks as to the different ways EU member and candidate countries have balanced these two interests. Such differences have been investigated within a EU-funded research project on religious slaughter (http://www.dialrel.eu).
Currently, there is a debate as to whether or not the decisions of religious courts should be recognised at civil law. Whilst the decisions of the established Church of England’s courts are recognised in England, the decisions of other religious courts, for example, Islamic, Rabbinical and Roman Catholic are not. In some member states of the EU, concordats exist between Church and State, allowing civil recognition of some ecclesiastical court decisions.

A case in Italy, which ended in the ECtHR has some salutary lessons for ecclesiastical courts. The case of Pellegrini v Italy, July 20, 2001, will be described briefly. We conclude that in order for these ecclesiastical decisions to be upheld at civil law, ecclesiastical courts must secure and implement procedural rules at least consistent with those in the State courts. Procedural law, therefore, should not be seen as a merely rigid discipline, but an important element for the protection of human rights and a fundamental requirement for the dispensation of justice.

Javad Gohari

Jurisprudential Underpinnings of the ECHR and Shariah Law

The judges who sit on the European Court of Human Rights are selected from various national jurisdictions and yet they need to abide by the rules of the Court in interpreting the laws of the European Convention on Human Rights. They are not bound to commit themselves to precedent.

They use various sources in their attempt to apply the ECHR on their cases. This presentation discusses the rules of interpretation of law in the ECHR with an exposition of the same rules in case of Shariah law. These sets of rules will then be compared with a reference to calls for consideration or incorporation of Shariah law in the Western legal systems including that of the United Kingdom.

Zachary R Calo

Pluralism, Secularism and the European Court of Human Rights

Zachary R. Calo
Associate Professor of Law
Valparaiso University School of Law

Beginning with its seminal 1993 decision in Kokkinakis v. Greece, the European Court of Human Rights has defined religious pluralism as an essential good of the liberal democratic society. Yet, in subsequent decisions traversing a range of legal issues [e.g. Sahin, Dahlab, Bayatyan, and Lautsi], the Court has rendered decisions facially at odds with the goal of advancing religious pluralism. This paper is concerned with assessing the discontinuity between the Court’s high embrace of normative religious pluralism and its failure to consistently realize this ideal in practice.
The paper argues that the Court has failed to consistently render decisions in accord with the norm established in Kokkinakis because it has embraced a mode of secular legal logic which treats public religion as a problem to be managed rather than as an essential feature of a healthy democratic society. As such, pluralism does not serve to free religion to participate in the cultivation of public meaning but rather becomes a potential threat to a settled secular order. The Court’s tepidness in advancing pluralism might thus be understood as part of an effort to control the meaning of the public in a way the preserves the predominance of a European secular story.

The Court’s difficulties with pluralism, this paper also argues, reveal deeper problems with the liberal account of human rights. Beginning with Rowan Williams’s claim that “legal universalism is a negative thing,” this paper offers an account of pluralism based in post-secular theological claims. The establishment of religious pluralism, it is argued, will require more than a commitment to pluralism as toleration or agonistic difference. It will require a rethinking of the relationship between the universal and the particular within human rights norms and, above all, the opening of human rights conversations to religious traditions.

Naveed Ahmed

Islamic Finance: A Substitute To Traditional Finance And Some Suspicions About Its Future

This paper attempts to discuss the theoretical aspects of the Islamic Finance System and to remove the misunderstood concepts that the Islamic financial system involves merely the absence of interest and only applies to those who practice the Islamic faith and is unable to provide a complete financial system in comparison with the traditional financial system. Moreover, it will briefly explain the current credit crunch and to investigate: 1) whether some solution is available within the framework of Islamic Finance to develop a financial system that would not guide the world in the direction of financial and economic crises, which the world is experiencing presently. The paper then will look over the problems associated with the Islamic Financial system as the critics of Islamic finance fears of the connections between Islamic finance and terrorist financing. Whereas the proponents of Islamic Finance consider it as a start of new business avenues and a substitute to traditional financial system and economic growth.

The paper includes a case study of Pakistan and Malaysia and compares the Islamic banking system in reference with its implementation, which takes its origin in early 1980’s in these countries. The last part of the paper will enquire about some of the careful observations that can cause the reputation of Islamic banking at risk and the preventive measures in this regard for better results in the future.

NAVEED AHMED

Student of PhD (Final Year)
Warwick School of Law,
University of Warwick, UK