Laïcité in Comparative Perspective (Conference): Foreword

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CONFERENCE

LAÏCITÉ IN COMPARATIVE PERSPECTIVE

FOREWORD

MARK L. MOVSESIAN

On June 11, 2010, the Center for Law and Religion at St. John’s University School of Law held its inaugural event, an academic conference at the University’s Paris campus. “Laïcité in Comparative Perspective” brought together scholars from the United States and Europe to explore the French concept of laïcité and compare it with models of church-state relations in other countries, particularly the United States. Participants included Douglas Laycock (University of Virginia), who offered the Conference Introduction; Nathalie Caron (Université Paris-Est Créteil); Blandine Chelini-Pont (Université Paul Cézanne Aix-Marseille); Nina Crimm (St. John’s University); Marc DeGirolami (St. John’s University); Javier Martínez-Torrón (Universidad Complutense); Mark Movsesian (St. John’s University); Rosemary Salomone (St. John’s University); Brett Scharffs (Brigham Young University); Michael Simons (St. John’s University); Emmanuel Tawil (Université Panthéon-Assas (Paris II)), and Elisabeth Zoller (Université Panthéon-Assas (Paris II)).

The Center chose laïcité as the subject of its inaugural event for two reasons. First, studying laïcité allows the Center to contribute to an emerging and fruitful dialogue between American and European scholars. No longer content to focus solely on the domestic context, law-and-religion scholars increasingly consider foreign legal systems as well. This is a very positive development. Comparative work can illuminate aspects of one’s own legal system—its history, aspirations, failures, and

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1 Frederick A. Whitney Professor of Contract Law and Director, Center for Law and Religion, St. John’s University School of Law. I thank Marc DeGirolami and John McGinnis for comments.
unstated assumptions—that one might otherwise fail to perceive. Because it is both so close to and so remote from American ideas about church-and-state—so familiar and so unfamiliar—laïcité offers a particularly good vehicle for comparison. American scholars can learn much about our conceptions of religion and religious freedom by considering the different versions that exist in the other Enlightenment Republic. And, in turn, French and European scholars can learn much about their own traditions by considering them in light of their American analogues.

Second, a conference on laïcité addresses issues that greatly concern the public at large. At this writing, both France and the United States are embroiled in controversies over the place of religion in national life. In France, the National Assembly is considering a proposal to ban the burqa—le voile intégral—in public places. Although the Conseil d'État, France's highest administrative court, has expressed serious doubts about the legality of such a ban, the Sarkozy government is pushing ahead with the proposal, with widespread public support. In the United States, the plan to build a mosque near Ground Zero has caused a heated debate between those who see the mosque as an admirable symbol of religious tolerance and those who perceive it as a triumphalist gesture calculated to cause offense. Although these particular controversies concern Islam, the place of religion in public life transcends any one creed. Both French and American society must determine how best to address the fact that religious commitments remain vital for millions of their citizens—a fact that would have confounded the secularization theorists of the last century, to say nothing of philosophes like Diderot and Voltaire.

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3 For a skeptical treatment of secularization theory, see, for example, GRACE DAVIE, THE SOCIOLOGY OF RELIGION 46–65 (2007).
The conference had three sessions: Laycock’s Conference Introduction, titled “American Religious Liberty, French Laïcité, and the Veil,” and two consecutive panels, “Laïcité in France—Contemporary Issues” and “Laïcité in Comparative Perspective.” We present here an edited transcript of the day’s proceedings. We have maintained the informal, conversational tone of the transcript in order to give readers a proper sense of the event. Similarly, we have not required the usual number of footnotes from authors in an effort to capture the spontaneous nature of the interchange among the participants.

Three main themes emerge from the day’s discussions. First, laïcité is a contestable concept that encompasses many discrete, and sometimes contradictory, notions. The word itself is not readily translated into English. Most authors settle for “secularism.” But “secularism” does not capture laïcité’s anti-clerical, even anti-religious, connotations. As Jeremy Gunn observes, the word emerged during periods of acute hostility between the French state and the Catholic Church. Laïcité historically was a militant concept, a polemic employed by actors who sought to suppress French Catholicism, particularly during the early decades of the Third Republic. Nowadays, this history is largely ignored or forgotten; many French apparently see laïcité as a neutral and irenic doctrine that unites their society. But its origins as a fighting word occasionally resurface, as in the laïcité de combat that Nathalie Caron describes in her contribution.

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6 Laïcité in Comparative Perspective Panel Discussion, 49 J. CATH. LEGAL STUD. 101 (2010).
8 See Douglas Laycock, Church and State in the United States: Competing Conceptions and Historic Changes, 13 IND. J. GLOBAL LEGAL STUD. 503, 504 (2006); see also JOHN R. BOWEN, WHY THE FRENCH DON’T LIKE HEADSCARVES 2 (2007) (noting that the word “can be translated as ‘secularism’”).
9 Gunn, supra note 2, at 432–42.
10 Id. at 439; see also Bowen, supra note 8, at 12.
11 See Gunn, supra note 2, at 428–29.
12 See Laïcité in France—Contemporary Issues Panel Discussion, supra note 5, at 94–95 (remarks of Nathalie Caron); see also Bowen, supra note 8, at 25.
One must distinguish between different categories of laicité. There is, for example, legal laicité—the principles that flow from legal texts. The most important texts are article 2 of the French Constitution of 1958, which declares France to be a “laïque” republic, and the 1905 Law on the Separation of Churches and the State. These texts do not actually define the term “laicité,” however, and to an outsider there appear to be some serious inconsistencies. For example, the 1905 law provides that “the Republic does not recognize, finance, or subsidize any religious group.” Yet, as Laycock points out in his Introduction, the French government is much more entangled with religion than any government in the United States. For example, the French Interior Ministry has an office, the Bureau des Cultes, whose responsibility it is to formulate guidelines for deciding which entities can be “recognized officially as ‘religious associations.’” The Ministry consults with the Vatican on the appointment of Catholic clergy; in Alsace-Moselle, which for historical reasons lies outside the coverage of the 1905 law, the Ministry actually appoints Catholic bishops. Moreover, despite the wording of the 1905 law, the French government grants significant subsidies to religion—much more than the United States Constitution would allow. For example, under an exception in the 1905 law, the government owns and pays for the

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13 Cf. BOWEN, supra note 8, at 29 (discussing Olivier Roy’s assertion that laicité should be understood as “the sum total of laws dealing with the relationship of the state to organized religions”).

14 T. Jeremy Gunn, Religion and Law in France: Secularism, Separation, and State Intervention, 57 DRAKE L. REV. 949, 954 n.31 (2009). In full, the English translation of article 2 reads: “France is an indivisible, secular [laïc], democratic, and social republic. It ensures the equality before the law of all of its citizens, without distinction as to origin, race, or religion. It respects all beliefs.” Id. at 953–54.

15 Id. at 954 & n.32. Many sources in English translate the phrase in the title of this act as “Separation of Church and State,” but a literal translation would use the plural. Id.

16 See BOWEN, supra note 8, at 29 (noting that legal texts nowhere define “laicité”).

17 Gunn, supra note 14, at 955.

18 See Conference Introduction, supra note 4, at 29.

19 Gunn, supra note 14, at 960–61.

20 Id. at 958, 960; see also Laicité in France—Contemporary Issues Panel Discussion, supra note 5, at 87–88 (remarks of Emmanuel Tawil).

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maintenance of all religious buildings in existence as of that date, including the great medieval cathedrals and countless smaller churches, mostly Catholic, throughout France. Religious bodies may use these buildings only with government permission. The government subsidizes private religious schools and pays for chaplains who serve in public schools. It even finances religious programming on public television.

As I shall explain in a moment, these inconsistencies should be understood as the product of France’s particular history. Whatever the reasons, though, it is clear that legal laïcité is a complicated thing. And legal laïcité must be distinguished from philosophical or political laïcité, from laïcité as a theory of religion’s proper place in French society. For example, the Conseil d’État has concluded that as a legal matter, laïcité requires neither a blanket ban on students’ wearing of religious insignia in public schools nor a blanket ban on the burqa in public places. Nonetheless, the National Assembly adopted a ban on religious insignia in 2004 and seems likely to adopt a ban on the burqa now. Even if legal laïcité does not command a particular outcome, political laïcité might.

Outsiders often assume that political laïcité means a rigid secularism, as the examples of the ban on religious insignia and proposed ban on the burqa suggest. But political laïcité turns out to be just as complicated and contested a concept as legal laïcité. To be sure, many French conceive of laïcité as strict secularism. But not everyone: the strict secularists are opposed by those, like President Sarkozy, who advocate laïcité positive, or “open secularism,” a gentler version of the doctrine that does not perceive religion as inherently dangerous to republican values—though it must be acknowledged that the Sarkozy government has put its weight behind the proposed burqa ban. A third group,
the advocates of laïcité en mouvement, stands somewhere in between. The key point is that political laïcité, like its legal counterpart, is up for grabs. As John Bowen observes, there has “never been agreement on the role religion should play in public life” in France, “only a series of debates, laws, and multiple efforts to assert claims over public space.”

Second, both in France and in other countries, much of the debate about religion in public life centers on the public schools. This should not come as a surprise. Both pro- and anti-religionists view public schools as a crucial battleground for shaping future citizens; the stakes are very high. In particular, the public schools traditionally have been seen as the vehicle for forging a common national identity that transcends religious difference and embraces the rationalist values of the Enlightenment. Following Rousseau, public schools traditionally are supposed to free children from religious influence and promote the primacy of the state over the church and other “communalist” attachments. Thus, when politicians like President Sarkozy compare public school teachers unfavorably to clergy and assert that the school teachers can never “replace” priests and pastors, secular-minded French take offense. On the other hand, religious parents resist attempts by public schools to indoctrinate children in secular or even anti-religious worldviews, an issue that Javier Martínez-Torrón

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30 See Laïcité in France—Contemporary Issues Panel Discussion, supra note 5, at 54 (remarks of Nathalie Caron).

31 BOWEN, supra note 8, at 33.

32 Laïcité in France—Contemporary Issues Panel Discussion, supra note 5, at 68–83 (remarks of Rosemary Salomone).

33 See BOWEN, supra note 8, at 24–25; see also Laïcité in Comparative Perspective Panel Discussion, supra note 6, at 130 (remarks of Elisabeth Zoller) (discussing Condorcet); id. at 134 (remarks of Nathalie Caron) (discussing Condorcet).


addresses here in the Spanish context. An obvious solution is for public schools to remain scrupulously neutral about religion. As Martínez-Torrón explains, however, neutrality is exceptionally difficult to achieve in practice.

Third, the discussions plainly reveal the importance of history. France and the United States share a commitment to religious liberty. Both have political regimes that date from the same period. Both are heirs of the Enlightenment. Both are secular states, in the sense that neither has an established religion. And yet, when one compares the ways in which religious liberty is instantiated in the two countries, one discovers significant differences. Practices that are entirely unremarkable in one would seem grossly out of place in the other. I have already mentioned some of these differences; the participants in this conference identify others as well. What explains this? If both countries share common founding principles, why do they apply them so differently?

The answer relates largely to different histories. Unlike France, the United States never had an ancien régime. There were religious establishments during the colonial period—and even afterwards, in some places—and a general Protestant ascendancy throughout much of American history. But America never has had an entrenched clerical class to displace or a Gallican-style church to dismantle. From the beginning, American society has been characterized by a religious pluralism and voluntarism that made such a class and church impossible. As a consequence, Americans traditionally have not seen religion as the enemy of liberty, a fact that astonished Tocqueville in the 1830s. On the contrary, throughout history, many Americans have seen religion as constitutive of political liberty. Americans in the evangelical tradition have long maintained that


Id.

For an excellent history of religion in America, see generally GEORGE M. MARSDEN, RELIGION AND AMERICAN CULTURE (1990).

See Russell Hittinger, Introduction to Modern Catholicism, in THE TEACHINGS OF MODERN ROMAN CATHOLICISM: ON LAW, POLITICS, AND HUMAN NATURE 1, 5-7 (John Witte Jr. & Frank Alexander eds., 2007) (discussing Gallicanism).

ALEXIS DE TOQUEVILLE, DEMOCRACY IN AMERICA 280–81 (Harvey C. Mansfield & Debra Winthrop eds., 2000). Indeed, Tocqueville wrote, “Americans so completely confuse Christianity and freedom in their minds that it is almost impossible to have them conceive of the one without the other.” Id.
Christianity itself requires a neutral state so that believers can make meaningful, voluntary commitments to God. This is not the only strain in American religious thought, of course, but it has been an important one. In short, government in America has never seen the church as an adversary it needs to vanquish. The epic nineteenth-century struggle between the “two Frances”—one Catholic and one Republican—has no American counterpart.

These historical differences help explain some of the incongruities the participants in this conference identify. For example, the fact that the 1905 law gives the French government title to church buildings and that religious groups can use these buildings only at the government’s discretion obviously reflects a desire to control, or at least monitor, the church—a desire born of mutual suspicion and hostility between state and church at the time of the law’s enactment. Likewise, the continuing participation of the government in the appointment of Catholic clergy can be seen as a control mechanism, as well as a continuation of Gallican traditions. The subsidies provided for the maintenance of church buildings, private religious education, chaplains, and the like, can be seen as practical compromises that allowed the two Frances to attain a modus vivendi. And the heightened sensitivity to public religious expression, even today, can be understood as the legacy of the traditional Republican wariness about the resurgence of the state’s traditional rival—what Nathalie Caron here calls le retour offensif du religieux.

Of course, not everyone agrees with this interpretation. In her analysis of the Conseil d’Etat’s recent opinion on the burqa, for example, Elisabeth Zoller questions whether laïcité continues

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42 For a helpful discussion of four perspectives that influenced the drafting of the Constitution’s religion clauses, see Witte, supra note 41, at 377–88. For an argument that contemporary American religion jurisprudence seeks to advance multiple, sometimes contradictory, values, see Steven H. Shiffrin, The Pluralistic Foundations of the Religion Clauses, 90 CORNELL L. REV. 9, 16 (2004).

43 See BOWEN, supra note 8, at 22–25, on the struggle between the “two Frances.” See also RENÉ RÉMOND, RELIGION AND SOCIETY IN MODERN EUROPE 57–59 (Antonia Nevill trans., 1999).

44 Laïcité in France—Contemporary Issues Panel Discussion, supra note 5, at 93 (remarks of Nathalie Caron); see also BOWEN, supra note 8, at 25.
to play its formerly strong role in resolving legal controversies.\textsuperscript{45} But this Foreword is not the place to settle the debate. The participants discuss it, and others, below. And I do not mean to suggest that incongruities are unique to France. Every legal system must live with its ironies; American church-and-state law has some of its own. The key point is that, in order to understand both French and American law with respect to religious liberty, one must consider not only formal legal texts and judicial decisions but the historical context in which these texts and decisions have effect. Especially in the area of law and religion, history and culture often explain much more than abstract legal doctrine.\textsuperscript{46}

It remains only to offer thanks: to the Law School for supporting this inaugural event, to the Paris campus for its hospitality, to the editors of the Journal of Catholic Legal Studies for their hard work, and to the participants for their very helpful contributions and the candid and congenial atmosphere that characterized the day’s events.

\section*{Biographical Background on Participants}

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Nathalie Caron is the Co-Editor of the Revue Française d'Études Américaines and professor of American studies at the Université de Paris-Est Créteil. She is director of IMAGER, a research institute at UPEC on English-, German-, and Romance language-speaking cultures. She has published essays on Thomas Paine, the American Enlightenment, the new atheism movement in the U.S., as well as religion and its treatment in the

\textsuperscript{45} See Laïcité in Comparative Perspective Panel Discussion, supra note 6, at 135 (remarks of Elisabeth Zoller).


Blandine Chelini-Pont

Senior lecturer in contemporary history and Ph.D. in Law at the University Paul Cézanne, Aix-en-Provence, France. She is head of the law and religion interdisciplinary research team on law in the media and in social change at the Université Paul Cézanne. Work 1: historical and contemporary relationships between law(s), politics and religion particularly in France and the United States (constitutional organization, legislation, jurisprudence, politics and public policy). Work 2: the implications of these issues in international relations (religious freedom, defamation, freedom of expression, proselytizing). Her current research focuses on the influence of American Catholic conservatism. Her next publication, "Rome and Washington from the Independence of the United States to the Cold War," will be available soon at Picard bookstores.
Professor Crimm began her legal career in Washington, D.C., as law clerk for Judge Irene F. Scott, United States Tax Court; practiced in a Washington, D.C. law firm; and worked as Attorney-Advisor/Senior Attorney in the Office of the Chief Judge of the United States Tax Court. Since 1987, she has been a professor at St. John's School of Law, and she was a Visiting Professor of Law and Visiting Scholar in Residence at Arizona State University School of Law for several semesters in 2003 through 2005. Professor Crimm was the ATAX Research Fellow at the University of New South Wales in Sydney, Australia in 2001, and she was a recipient of a 2002-2003 research grant from the prestigious Washington D.C. nonpartisan, nonprofit organization, the American Tax Policy Institute.

Professor Crimm teaches a variety of tax courses in addition to a class on Nonprofit Organizations and a course on Global Philanthropy and U.S. Assistance: Legal, Policy, Political and Cultural Issues.

Professor Crimm is co-author of a book entitled Politics, Taxes and the Pulpit: Provocative First Amendment Conflicts, which is to be published by Oxford University Press in early fall, 2010. She is the author of Tax Issues of Religious Organizations, the newest edition of which was published in 2009 by the Bureau of National Affairs. Beginning spring, 2010, Professor Crimm writes a quarterly column, “The Quarterly Commentator,” on a variety of nonprofit and tax issues for The Exempt Organization Tax Review. In addition, she has written numerous law review articles and has made many presentations about domestic and foreign policies and laws particularly relevant to cutting edge nonprofit organization issues.
Marc O. DeGirolami joined the St. John’s School of Law faculty in 2009. He teaches Criminal Law, Professional Responsibility, and Law & Religion.

Professor DeGirolami graduated cum laude from Duke University and received his J.D. cum laude from Boston University School of Law. He holds a masters degree from Harvard University as well as an LL.M. and a J.S.D. from Columbia Law School. At Columbia, he was a James Kent Scholar and a Bretzfelder Fellow in Constitutional Law, and he won the Walter Gellhorn Prize awarded for the highest grade-point average in the class. 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. His professional experience includes service as an Assistant District Attorney in Cambridge, Massachusetts. Prior to joining the St. John’s faculty, he taught legal research and writing as an Associate-in-Law at Columbia Law School and then served as a Visiting Assistant Professor and Scholar in Residence at Catholic University’s Columbus School of Law.

Professor DeGirolami’s scholarship focuses on Law & Religion and Criminal Law. His papers have appeared or will be published in various law journals including Legal Theory, Ohio State Journal of Criminal Law, Boston College Law Review, Alabama Law Review, and St. John’s Law Review, among others.
Douglas Laycock is the Armistead M. Dobie Professor of Law, the Horace W. Goldsmith Research Professor of Law, and Professor of Religious Studies at the University of Virginia. He has published many articles on religious liberty and other issues of constitutional law and articles and two books on the law of remedies. He is a co-editor of *Same-Sex Marriage and Religious Liberty* (2008). His many writings on religious liberty are forthcoming in a four-volume collection from Eerdmans Publishing, the first of which, *Volume I, Overviews and History* (2010), has just appeared.

He has been actively involved in religious liberty issues in the courts and legislatures, as well as in the law reviews. He is an experienced appellate litigator, including in the Supreme Court of the United States, and he has played a key role, in public and behind the scenes, in developing state and federal religious liberty legislation. He has represented clients across the religious and political spectrum: the Roman Catholic Archbishop of San Antonio, the National Association of Evangelicals, Hindus and Santerians, the American Civil Liberties Union, and parents objecting to school-sponsored prayers at football games. He received the 2009 National First Freedom Award from the Council on America’s First Freedom.

He is a graduate of Michigan State University and of the University of Chicago Law School. He is also a Fellow of the American Academy of Arts and Sciences and a Vice President of the American Law Institute.
Mr. Martínez-Torrón is a Professor of Law and Head of the Department of Law and Religion at Complutense University (Madrid, Spain). He holds a doctor *utroque iure* in law and of canon law. He is vice president of the Section of Canon Law and Church-State Relations of the Spanish Royal Academy of Jurisprudence and Legislation and a member of the OSCE/ODIHR Advisory Council for Freedom of Religion or Belief. He is also a member of the Spanish Advisory Commission for Religious Freedom. His writings, published in eighteen countries and in ten languages, include sixteen books as author, co-author, or editor, and more than eighty essays in legal periodicals or collective volumes. His research on law and religion issues is characterized by a predominant interest in international and comparative law.

Mark L. Movsesian

Mark L. Movsesian is Director of the Center for Law and Religion and the Frederick A. Whitney Professor of Contract Law at St. John’s. His articles have appeared in the *Harvard Law Review, North Carolina Law Review, Washington & Lee Law Review, the American Journal of International Law, the Harvard International Law Journal, the Virginia Journal of International Law*, and 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. He 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 the Justice. Before starting at St. John's, he was the Max Schmertz Distinguished Professor of Law at Hofstra University.

Rosemary C. Salomone

Rosemary Salomone, the Kenneth Wang Professor of Law at St. John's School of Law, teaches constitutional law, administrative law, and a seminar on children and the law and has served in past years as Associate Academic Dean and Director of the Center for Law and Public Policy.

She has lectured internationally and published extensively on education law and policy and children's rights. In addition to her most recent book, True American: Language, Identity, and the Education of Immigrant Children (Harvard Univ. Press, 2010), she also is the author of Same, Different, Equal: Rethinking Single-Sex Schooling (Yale Univ. Press) (selected as an “Outstanding Academic Title for 2005” by Choice Magazine), Visions of Schooling: Conscience, Community, and Common Education (Yale Univ. Press), and Equal Education Under Law: Legal Rights and Federal Policy in the Post “Brown” Era (St. Martin's Press). She has been a recipient of numerous research and academic awards, including St. John's University's highest honor, the St. Vincent de Paul Teacher-Scholar Award; the University Outstanding Faculty Achievement Award; and grants from the National Science Foundation, the U.S. Department of Education, the Spencer Foundation, and Harvard University. She has held fellowships at Columbia University School of Law and at the Soros Foundation's Open Society Institute. Her
present research examines citizenship and schooling within the context of immigrant integration in the United States and Western Europe, particularly France.

Prior to St. John's, she was an Associate Professor at the Harvard Graduate School of Education, where she taught education law, school finance, and language policy and was a lecturer in Harvard's Institute for Educational Management. From 1985 to 1995, she was a member of the Board of Trustees of the State University of New York. She is a former chair of the section on Education Law of the Association of American Law Schools and of the Education and the Law Committee of the Association of the Bar of the City of New York, where she served on the Council on Children. She was elected to membership in the American Law Institute in 2008. She currently serves on the Advisory Boards of the National Coalition of Single-Sex Public Schools and of the Education Law Abstracting Journal.

Professor Salomone is a graduate of Columbia University (Ph.D., LL.M., M.Phil.), Brooklyn Law School (J.D.), Hunter College (M.A.), and Brooklyn College (B.A.).

Brett G. Scharffs

Brett G. Scharffs is the associate director of the International Center for Law and Religion Studies. His scholarly interests are law and religion, corporate law, international business law, and philosophy of law.

Professor Scharffs clerked for the Honorable David B. Sentelle on the U.S. Court of Appeals, D.C. Circuit, and worked as a legal assistant to the Honorable George H. Aldrich at the Iran-U.S. Claims Tribunal in The Hague. Before teaching at BYU, he worked as an attorney for the New York law firm, Sullivan & Cromwell. Before coming to BYU Law School, he taught at Yale University and the George Washington University Law School. He is currently serving as Chair of the Law and Religion section of the American Association of Law Schools.
Michael A. Simons is Dean and John V. Brennan Professor of Law & Ethics at the St. John’s School of Law.

Dean Simons graduated magna cum laude from the College of the Holy Cross in 1986 and magna cum laude from the Harvard Law School in 1989, where he was an editor of the *Harvard Law Review*.

Dean Simons joined the St. John’s faculty in 1998 and was selected by the students as “Professor of the Year” in 2000. From 2005 through 2008, he served as Associate Dean for Faculty Scholarship. His own scholarship has focused on sentencing, prosecutorial decisionmaking, and punishment theory. His articles have appeared in the *New York University Law Review*, the *Vanderbilt Law Review*, the *George Mason Law Review*, the *Villanova Law Review*, the *St. John’s Law Review*, *The Catholic Lawyer*, and the *Journal of Catholic Legal Studies*. He teaches in the areas of criminal law and evidence, and he has been a frequent lecturer to the bench and bar on both topics. He is also a Senior Fellow with the Vincentian Center for Church and Society.

After graduating law school, Dean Simons clerked for the Honorable Louis F. Oberdorfer of the United States District Court for the District of Columbia. He later served as a staff attorney for *The Washington Post*, as an associate at Stillman, Friedman & Shaw, and as an Assistant United States Attorney in the Southern District of New York.
Emmanuel Tawil

Emmanuel Tawil is an Associate Professor of Public Law in the Law School at the University of Paris II (Panthéon-Assas), where he teaches International Relations, Administrative Law, Constitutional Law, and Introduction to European Law. He joined the Law School of Paris II in 2007. Since 2010, he has also lectured at the School of Canon Law of the Catholic University in Paris. In France, he has taught Religious Freedom and Introduction to Canon Law at Université Paul Cézanne from 2003–2006. Abroad, he has taught and researched at Universiteit Antwerpen, Université Catholique de Louvain, and the University of California-Berkeley.

He served as an attorney for the diocesan tribunal of Arras-Cambrai between 2003–2007 and as defensor of the Bond at the diocesan tribunal of Strasbourg from 2001–2003.

He received a doctorate in Canon Law from the School of Theology in Strasbourg University in 2003, a post-doctoral diploma in Religious Studies from the School of Human Studies at Sorbonne in 2005, and a doctorate in Public Law from the Université Paul Cézanne in 2006.

Elisabeth Zoller

Elisabeth Zoller is Professor of Public Law in the Law School at the University of Paris II (Panthéon-Assas), where she is Director of the Center for American Law and Director of the Comparative Public Law Doctorate Program. She joined the Law School of Paris II in 1995, where she teaches Constitutional Law and Comparative Public Law. In France, she taught

In the United States, Zoller was a visiting professor at Cornell University (1984), Rutgers University (1987–1988), and Tulane University (1994). Since 1996, she regularly visits the Mauer School of Law (Indiana University-Bloomington), where she teaches and researches in comparative constitutional law.

Zoller served as Counsel and Advocate for the Government of the United States of America before the International Court of Justice in the case concerning questions of interpretation and application of the 1971 Montreal Convention arising from the aerial incident at Lockerbie (1998) and in the case concerning Avena and other Mexican nationals (2004).