Two alternatives have emerged:

(1) Some states draw a distinction between hierarchical churches and congregational churches. Courts defer to the decision of the highest authority within hierarchical denominations; and,

(2) Other states resolve these disputes based on neutral (non-theological) principles where possible. Ownership of property is determined based on the contents of documents (deeds, contracts, etc.) just as it would be resolved in non-religious property disputes.

Each theory raises problems: Advocates of neutral principles argue that hierarchical deference shows an arbitrary preference for—an establishment of—one side of the dispute and question whether courts can squeeze the growing variety of religious faiths in the United States into hierarchical and congregational categories. Advocates of hierarchical deference argue that if we allow courts to decide church disputes, it will be the start of government interference in all sorts of religious affairs.

Join us as we consider recent developments in church/state law and their implications for church property and other disputes.

Robert F. Cochran, Jr.
Louis D. Brandeis Professor of Law and Director, Herbert and Elinor Nootbaar Institute on Law, Religion, and Ethics

We live in a time of uncertainty about the status of religious liberty. Courts have ordered religious hospitals and medical personnel to offer services that violate their religious beliefs. Sex abuse cases call into question whether courts can defer to church supervision of clergy. Religious organizations that require employees to share their religious commitments are charged with employment discrimination. At this conference, we will consider the status of religious liberty in the United States.

In addition, we will focus on another set of cases that raises religious liberty issues. Cases pending in several states will determine whether local congregations or denominational hierarchies own religious property. Underlying these disputes are theological disputes between the congregations and denominations. Early in our history, the United States Supreme Court determined that American courts cannot resolve the underlying theological controversies.
been a member of that church for 30 years and has served on the vestry of All Saints Anglican Church in Long Beach, California. It is one of the congregations that has withdrawn from The Episcopal Church. She has also served on the vestry at Holy Cross Anglican Church in Santa Ana, California, and serves as legal counsel for the Episcopal Diocese of Los Angeles in the California church property litigation. He is a magna cum laude graduate of Duke Law School and clerked for Wm. Matthew Byrne, Jr., U.S. District Court, Central District of California.

Lynn Moyer is the Chancellor and a Lay Eucharistic Minister of the Church of the Transfiguration, located in New York City. She served as a member of the New York City Diocesan Convention for 12 years and chaired the Liturgical Committee. She is also a member of the New York City Diocesan Board of Deputies, having served as clerk for that board. She has been a member of All Saints Anglican Church in Long Beach, California, and serves as legal counsel for the Episcopal Diocese of Los Angeles in the California church property litigation. He is a magna cum laude graduate of Duke Law School and clerked for Wm. Matthew Byrne, Jr., U.S. District Court, Central District of California.

Kenneth W. Starr is professor of law and associate academic dean at Pepperdine University School of Law. His law degree is from UCLA, and he clerked for Wm. Matthew Byrne, Jr., U.S. District Court, Central District of California. He writes in the areas of land use and the First Amendment.

Robert F. Cochran, Jr., is the Louis D. Brandeis Professor of Law and director of the Herbert and Elinor Nootbaar Institute on Law, Religion, and Ethics at Pepperdine. His books include Faith and Law: How Religious Traditions from Calvinism to Islam Influence American Law (NYU Press, 2006) and Christian Perspectives on Legal Thought (Yale Univ. Press, 2001) (with Michael McConnell and Angela Carmella).


Jeremy B. Rosen is a partner with Hervieux & Levy, Los Angeles, California, and serves as legal counsel for the Episcopal Diocese of Los Angeles in the California church property litigation. He is a magna cum laude graduate of Duke Law School and clerked for Wm. Matthew Byrne, Jr., U.S. District Court, Central District of California.

Shelley Ross Saxer is professor of law and associate academic dean at Pepperdine University School of Law. Her law degree is from UCLA, and she clerked for Wm. Matthew Byrne, Jr., U.S. District Court, Central District of California. She writes in the areas of land use and the First Amendment.

James H. Miller and Lynn Moyer are co-authoring a book titled The Religious Property Cases: The View from the Courtroom (Yale University Press, 2006) and are teaching a course titled Challenges to Congregations in the United States (Fall 2009). Their paper is forthcoming in a special issue of The Virginia Law Review. Their paper will present new insights and data about church property cases in the United States and the role of the courts in deciding these disputes.

RELIGIOUS PROPERTY LAW CONFERENCE A NOVEMBER IN JERUSALEM — The School of Law is located one-and-a-half miles from an Orthodox worship center and hotel accommodations (Crow Malibu). Kosher meals will be available at all conference events. To request kosher meals or make additional questions, contact Rabbi and Pepperdine law professor Sam Levine at (310) 506-6912 or samuel.levine@pepperdine.edu.

This conference has been approved by the State Bar of California for six hours of Minimum Continuing Legal Education (MCLE) credits. Pepperdine University School of Law certifies that this activity conforms to the standards for approved education activities prescribed by the rules and regulations of the State Bar of California governing minimum continuing legal education.

MCLE Credit

The weather in January is typically sunny and pleasant, in the mid-70s during the day and the 50s at night. The campus is a short walk from the coast, 45 minutes north of Los Angeles International Airport (LAX). For links to hotels in the area, see http://law.pepperdine.edu/welcome/visitor_information/hotels.html. For links to hotel accommodation options and hotel information, see http://law.pepperdine.edu/welcome/visitor_information/hotels.html. For links to hotel information, see http://law.pepperdine.edu/welcome/visitor_information/hotels.html.

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