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1-18-2011

### January 18, 2011: So, is this the post-secular age or not?

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#### Repository Citation

Ledewitz, B. (2011). January 18, 2011: So, is this the post-secular age or not?. Retrieved from <https://dsc.duq.edu/ledewitz-hallowedsecularism/496>

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Title: So, is this the post-secular age or not?

Date: 2011-01-18T06:10:00.003-05:00

1/18/2011—Last week, 1/8, I attended the Law and Religion section at the AALS (American Association of Law Schools) convention in San Francisco. The topic, which I had helped to formulate, was “Law and Religion in a (Post-) Secular Age”. The question was to be, are we secular or post-secular, and what might that mean.

There has been a lot of talk about the post-secular age. The basic idea is that progressive western thought in the 17th century on, more or less, and certainly in the age of Freud, Marx and Feuerbach, expected religion to wither away with the growing acceptance of modernity. This was known as the secularization thesis.

However, in recent years, religion has been making a comeback all over the world as a force shaping the modern world. Habermas has had a lot to say about that shaping function. So, the thesis is wrong and all that talk about coming secular society is false. Religion must get a more respectful hearing in the public square, therefore.

Charles Taylor, to my mind, has a better take on all this by pointing out that the secular is deeper than the resurgence of religious practice. It is a way of life in which religion is merely an option. This seems increasingly the case, despite ferocious enforcement of blasphemy laws in the Muslim world.

Paul Horwitz set up the issue really well (and introduced his soon-to-be-released book, *The Agnostic Age*). But the panel did not respond in full. They seemed to agree that religion is more important than before; certainly they were more respectful than any secularist would have been any time before. Andrew Koppelman described the current American system of neutrality as religion friendly. He pointed out that secularism is a Christian product, a la Taylor. He looked forward to new forms of religion emphasizing human benevolence. Emily Hartigan called herself an avowed post-secularist looking to the “something beyond”. She could not have been more religion friendly. Charlton Copeland strongly emphasized the religious tradition in the African-American community and that its presence has never gone away in any sense. And Ayelet Shachar, also describing us as in a post-secular age in which secular and religious law are entangled.

But below the surface, the old secular tensions seemed to me still to be present. When the panel began to discuss specifics, the religion-friendly veneer began to wear. Shachar, for example, was happy to have religious courts grant “purely religious divorces” but was wary of religious law that gave less material support to women than does secular law—as if religion has to do only with the spirit and not with property. Koppelman's neutrality is on secular terms, after all. Hartigan's radical epistemological pluralism might render traditional religions outdated (though this is not her goal, certainly). She referred to government neutrality as “aspirational”. She meant this in the sense that the secular is not really neutral, but then something is and it can't be Christianity and Judaism. Copeland practically condemned faith-based initiatives.

My point is only this—the old anti-religious bias, at least the old anti-organized religion bias was still pretty much on display. The panel seemed to me to return pretty quickly from the post-secular to the secular.

One question from the floor brought the tension to the surface: is the state really sovereign? Now there is a post-secular question. But I think the answer on the panel was basically, Yes, right out of the secular playbook.