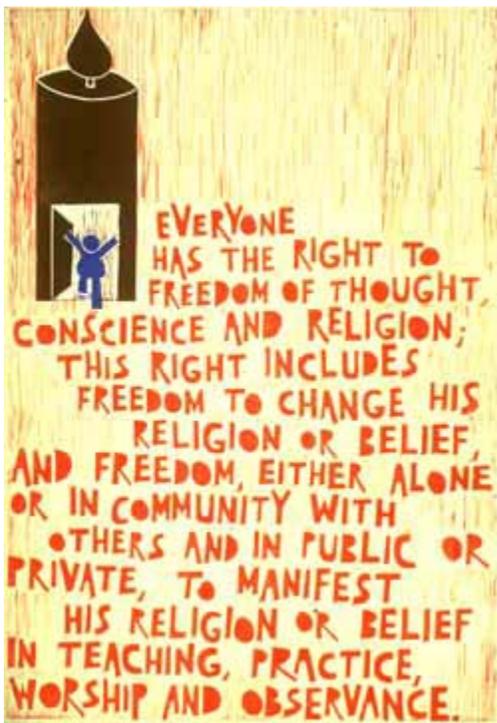


DIALOGUE WITH LAWYERS: RELIGIOUS AND SPIRITUAL BELIEFS AND THE PRACTICE OF LAW



Article 18 of the Universal Declaration of Human Rights

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The Law Society of Upper Canada
April 14, 2005

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Norman Rockwell

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INTRODUCTION

In May 1997, the Law Society unanimously adopted the *Bicentennial Report and Recommendations on Equity Issues in the Legal Profession* (the *Bicentennial Report*)¹ and recognized its commitment to the promotion of equality and diversity in the legal profession and its responsibility to regulate and provide services to an increasingly diverse legal profession² and population. Recommendation 1 of the *Bicentennial Report* provides “The Law Society should ensure that the policies it adopts actively promote the achievement of equality and diversity within the profession and do not have a discriminatory impact.”

There is great diversity in the religious³ and spiritual beliefs and practices of people in Ontario and in Canada. This diversity, together with the values and spirituality that are shared in Ontario, in Canada and throughout the world, should be celebrated.

The Law Society of Upper Canada recognizes the importance of promoting religious diversity and respect for religious beliefs. On April 22nd, 2004, Convocation passed a motion that the Law Society’s Equity and Aboriginal Issues Committee and the Law Society’s Government Relations Committee recommend to Convocation for Convocation’s approval the role the Law Society should play and the positive steps it should take to discourage anti-Semitism and all forms of hatred or discrimination based on religion in our profession, our society and the world, and to promote religious respect in our profession, our society and the world.

In May 2004, a Working Group on Anti-Semitism and other Forms of Hatred and Discrimination Based on Religion (Working Group) was created with members of the Equity and Aboriginal Issues Committee/Comité sur l’équité et les affaires autochtones, the Government Relations Committee and other interested benchers. Joanne St. Lewis is Chair of the Working Group. The members of the Working Group are: Andrea Alexander, Gary Gottlieb, Thomas Heintzman and Mark Sandler.

The Working Group decided that the Law Society should develop programs and initiatives to discourage anti-Semitism and all forms of hatred or discrimination based on religion, and to promote religious respect. Some of the initiatives proposed include creating a statement of principles; developing education and outreach programs; sponsoring and attending community events; recognizing lawyers who demonstrate a commitment to the issues; and publishing information on a regular basis about the importance of promoting religious and spiritual respect and discouraging hatred and discrimination based on religion.

¹ *Bicentennial Report and Recommendations on Equity Issues in the Legal Profession* (Toronto: Law Society of Upper Canada, May 1997).

² For information about the demographics of the legal profession, see Michael Ornstein, *The Changing Face of the Ontario Legal Profession, 1971-2001* (Toronto, October 2004).

³ In this report, the term “religious” belief includes “spiritual” belief. The terms “religion” and “creed” are used interchangeably.

On March 24, 2005, Convocation adopted the document *Anti-Semitism and Respect for Religious and Spiritual Beliefs - Statement of Principles*. The *Statement of Principles* is well within the mandate of the Law Society “to govern the legal profession in the public interest by [...] upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law”. The *Statement of Principles* for the legal profession promotes respect for religious belief and condemns hatred or discrimination based on religion. It not only advances the cause of justice and the rule of law, but also serves to educate the legal profession in the public interest.

In an attempt to understand the views of the legal profession in Ontario on how faith/spiritual belief intersects with the practice of law, the Working Group also decided that a cross-section of the profession should be interviewed about the relationship between their faith/spiritual belief(s) and practices, the rule of law and legal practice. It should be noted that the views of the lawyers interviewed are their personal views and not those of other members of their faith or of the legal profession or the Law Society. However, the exercise reveals the commonality in the values and respect for human dignity of each religion. The interviews also indicate that the positive interrelationship between spiritual or religious beliefs and the practice of law appears to cut across all faith and spiritual beliefs. The following individuals were interviewed: Kiran Kaur Bhinder (Sikh), Judith Holzman (Jewish), Douglas Elliott (Christian), Vinay Jain (Jain), John Borrowes (Aboriginal), Amina Sherazee (Muslim), Anita Balakrishna (Hindu) and Eric Nguyen (Buddhist) (See Appendix 1 for biographies).

DIALOGUE WITH LAWYERS

The following pages present the lawyers perspectives on various topics. The views of the lawyers interviewed are their personal views and not those of other members of their faith or of the legal profession or the Law Society. The lawyers interviewed have consented to the publication of their responses by the Law Society.

Question 1: How would you explain the relationship between your faith/spiritual belief(s) and practices and the rule of law?

Anita Balakrishna - Hindu

I find that Hinduism, by its very nature, is extremely open and accepting of different kinds of systems and views. I do not see contradictions in the values that are taught by my religion and those that are carried out in the rule of law. I think that the difference is not spiritual in nature, but cultural. Generally Hinduism is very open to other practices and views.

Kiran Bhinder - Sikh

Sikhism strongly believes in the principles of democracy, individual freedoms, due process, and fairness. Also our fundamental beliefs and our fundamental practices are based on certain inalienable rights and universal principles of equality, freedom of conscience and religion, equality between genders, castes, religion, and all other aspects. Individual freedom is a cornerstone of our faith and we believe in due process and all aspects of fairness and justice.

John Borrows – Aboriginal

My spiritual beliefs reinforce my respect for the rule of law. I have been taught that respect for another is respect for the Creator, and the rule of law (in my view) attempts to structure our relationships to foster respect.

Doug Elliott – Christian

As a Christian, I believe that justice is one of the things that is expected of human beings by God. And in fact, Christianity is about an unjust conviction by an oppressive state against an unpopular minority. And when you reflect on that as being the foundation of the Christian faith, then I think you appreciate that the rule of law, incorporating fair process and respect for human rights, is central to Christian belief as well.

Judith Holzman – Jewish

Practicing as a lawyer, my religion requires a code of ethics, and commands to do good deeds. People of my religion are commanded to help others. In fact, the best way to illustrate this is to consider that the word for "charity" and the word for "piousness" are the same word in the Jewish religion. To be pious, one has to do charity. One has to help one's fellow man, and the highest level of charity is to help others to help themselves, in effect enabling them to help themselves move forward in their lives. There are over five hundred prescribed good deeds in the Jewish religion.

One is supposed to feel an absolute obligation to one's fellow man. That may be a way to see yourself as a lawyer. In my religion, we are obligated to obey the laws of the government and of the country. Not in a dictatorship, but in a democratic country which allows for religious freedom. One gives thanks to God for our democratic government in prayers on each holiday and on the Sabbath, and one prays for the good of the country. One is allowed to protest peaceably. One is allowed to run for government or do what is suitable to help change the laws of the country in a favourable fashion, and to move along ethical and moral grounds. But one is not allowed to disobey the laws, and one is not allowed civil insurrection.

The different Jewish sects all believe in the same religion and laws. There are differences in observance. Very traditional Jews, Orthodox Jews, do not drive on the Sabbath because if you follow the traditional views, you should not be operating machinery on the Sabbath. There are various interpretations of religious rules by various sects as opposed to differences in view of the world at large. There are different views in the Jewish faith, but we interact similarly with the extended world. The basic laws are the Ten Commandments and the Jewish written code of law called the Halacha. Halacha obliges us to act in a certain moral fashion. For all Jews, whether Conservative, Reform, Orthodox, Hassidic, or other, the interaction with the world at large would be the same.

Vinay Jain – Jain

The basic tenet of Jainism is that of non-violence to all living things. And so you can extrapolate that in terms of social justice issues. I think that the work that I do is social justice. So to me, that's how I would relate the two. I'm not sure which came first, the desire to work in the social justice field or the influence of my faith in choosing social justice work. But to me, those ideas go hand in hand. So that makes me comfortable when I am doing the work that I do, but also calling myself a Jain.

Eric Nguyen - Buddhist

My faith goes hand in hand with my law practice. In terms of my own practices, my faith leads and guides me in being honest and truthful to my clients and in trying to steer them in a direction that I feel would be most appropriate for them. In family law, I often act as the mediator. In Buddhism, what you do has consequences in the future. Buddhism teaches you to look at the future and to anticipate events that may happen. When dealing with clients, I often tell them to be aware that if they take a certain action, these are the consequences. In relation to the rule of law, in the Buddhist faith, everyone is equal before the law.

Amina Sherazee - Muslim

The rule of law, in my view, is premised on the positivist theory. The main proposition of the rule of law is that one law applies to everyone equally therefore no one is above the law, not even the king. My religious beliefs are based on some of the main premises of Shia Islam. One of the main pillars of Shiaism is justice. My religious beliefs inform how I perceive the rule of law, and how it should be implemented and respected. The rule of law is important to me because of the idea of one law for everyone, without discrimination and misapplication of the law.

Question 2 - How does your faith or spiritual beliefs affect your practice of law?

Anita Balakrishna - Hindu

In my Hindu practice, the kinds of things that I have learned and the kind of experiences relate to being very open and viewing everyone around me as an equal. It makes it easier to accept people, clients and other lawyers, as they are and to respect other laws that might exist out there in other jurisdictions or regions. Hinduism has made me much more open in my acceptance of people and their views.

Kiran Bhinder - Sikh

My faith informs my practice of law and helps me to approach my duties with balance and a broad perspective. My faith does not conflict with the practice of law whatsoever in regards to the views and perspectives. Our perspectives are very much uniform with the rule of law. Throughout Sikh history there are very strong teachings on principles of justice and fundamental rights issues. We believe in representing all individuals, and the right for everyone to have their day in court. So the practice of law not only is in complete accordance with our own personal views and practices in Sikhism, but also professionally. Sikh principles are based on the belief that every individual is capable of being the worst or the best example of the human condition. Thus, we strongly believe that any system that attempts to regulate a person's actions and enforce law must be fair, consistent and constantly evolving.

John Borrows – Aboriginal

My spiritual beliefs affect my teaching and scholarship because I try to measure and evaluate what I do by reference to broader principles of peace, friendship and respect.

Doug Elliott– Christian

It does, first of all, affect my practice of law. And that is something that is not necessarily well received in today's secular society. I think that religious faith often tends to be viewed with some skepticism or cynicism. However, it does influence the way I do things. I think that I'm very sensitive to living my faith to the extent that I can in my practice, and reflecting Christian values in my life. It is important for me to reflect in my practice a commitment to working for social justice. This is in keeping with other great human rights and advocates who have been inspired by the faith, people like Martin Luther King, and Desmond Tutu,

and closer to home, Tommy Douglas, who are all people of faith, who had a commitment to social justice. I put a high priority on reflecting my Christianity in the way I treat other people, which is one of the fundamental tenets of the Christian faith, and respect for those who have different opinions. I am very conscious of the fact that one of the bad traditions of Christianity has been intolerance of other points of views, even within Christianity, but also of other faiths like Judaism and Islam. In my view, good Christians always have to be sensitive to that history of intolerance and work hard to try and overcome it. There is nothing exclusionary about Christianity. Jesus Christ was in fact very critical of the religious authorities of his day for their discrimination against non-Jews, and for their clinging to religious rules instead of treating people with humanity.

Judith Holzman – Jewish

You are supposed to act in a morally correct fashion. Underhanded or sharp practice is forbidden. You are supposed to help other human beings. Judaism fits into the precept of treating your colleagues with respect and understanding. You're supposed to act in a morally upright fashion and to treat others, as you would wish to be treated. The Judeo-Christian precepts are very similar.

Vinay Jain – Jain

I don't think it affects it, specifically. I think it supports it. And to what extent it's specifically the Jain faith, or to what extent it's my own belief, that I can't say.

Eric Nguyen - Buddhist

My faith affects my practice of law. I do pro bono work with clients that are less fortunate. One of the tenets of Buddhism is that everyone is equal and one should try to help those who are less fortunate. My faith affects my practice of law. In terms of my criminal practice, I tend to be selective in the cases I take on. Buddhists try to resolve things peacefully. We don't believe in violence at all.

Amina Sherazee - Muslim

It dictates to some extent the kind of cases I take on. The kind of cases I take influences the amount of commitment I have to those cases. Because one of the main pillars of Islam is charity to the poor, I try to assist my clients who have little money in anyway I can. For example, if a client has little or no money for an immigration application, I try to assist them to the best of my abilities. I try to be a lawyer and a humanitarian at the same time, but it has its challenges. It also teaches me to stand up for what is right and to defend my beliefs even if they are unpopular.

Question 3 - What are some of the challenges you face in the legal system/profession with respect to your faith or spiritual beliefs?

Anita Balakrishna - Hindu

I think spiritual beliefs should be kept separate from the rule of law and the practice of law. Of course, my spiritual beliefs might impact the way I handle a case or accept certain cases. In any event, I believe the two systems should be kept separate. My challenge is in accepting that other religions want to impose their own legal rules, because of my strong belief in the separation between religion and the state. In terms of my personal challenges, most of the challenges are culturally related, such as not being served vegetarian food, others making remarks about the fact that I am a vegetarian or others questioning me about why I eat certain foods or why I don't eat certain foods. Other than that, I cannot think of other real challenges that I face in the legal profession.

Kiran Bhinder - Sikh

We do not face challenges with respect to our spiritual beliefs. The practical challenges we face, for example, might be the wearing of articles of faith. The Sikhs who have been confirmed or initiated wear five articles of faith, and among these articles, which are most visible, are the turban and the kirpan. The kirpan is like a small dirk, and it is our right to wear the kirpan into the courtroom. However, there have been instances where I know of Sikh lawyers who have been stopped and had to explain that this is allowed. There are issues of awareness about the right to wear the kirpan. All security guards and court officials should know about the Sikh articles of faith and our right to carry these articles of faith. Sikhs' right to wear the articles of faith includes the right in the House of Commons and throughout all government buildings.

Multani v. Commission scolaire Marguerite-Bourgeois et. Al. was recently heard by the Supreme Court of Canada. This case is with regards to a young student's right to wear the kirpan in school. As this case demonstrates, even in the wearing of our articles of faith, Sikhs have attempted to satisfy the competing needs of safety and personal freedom by achieving a balance that meets both. All articles of faith are worn by initiated Sikhs at all times. And we believe in respecting the rule of law and fairness, but one of our inalienable rights is the right to freedom of religion. We believe that a person cannot fulfill herself, spiritually or otherwise, unless she is free to believe and practice as she chooses. However, we do recognize the need to carry out our practices in a way that is not disruptive in a secular society and have been doing that for many years in many countries around the world. This does not mean compromising on our principles, but taking all steps necessary to achieve a balance among our right and need to adhere to our faith with recognizing legitimate interests of others.

The initiation ceremony is completely equal for men and women. In fact, when a Sikh is initiated, one is thereafter known as a “Khalsa”, which has no gender distinction. There are five articles of faith. One of the articles of faith is the turban, which covers the unshorn hair of the person. Men wear turbans and women wear turbans or scarves. The turban and kirpan as with the other Sikh articles of faith, are within our history, within our faith practice, and fundamental to our belief system. The kirpan for us is our connection to the fundamental belief of personal sovereignty and the right and responsibility of each individual to be an example of, and defend at all times, the right of all people to live a fair, free and just life. We have a Sikh member of parliament who wears his kirpan in the House of Commons.

John Borrows – Aboriginal

A difficult challenge is when the focus on money and acquisitiveness inappropriately takes precedence over what I consider to be more primary spiritual ideas and beliefs. For example, when land is taken and used for profit without respect for other users (plants, animals, people) this is hard to reconcile with what I have been taught.

Doug Elliott – Christian

Dealing with the last point first, when I started saying that I was going to observe the Christian Sabbath, I was met with a lot of skepticism and cynicism and disbelief by some of my colleagues. Others find it hard to believe that people in this day and age would do that. It is very difficult to resist that kind of criticism in a way that does not make you seem like you're trying to be holier than thou. You want to do what you think is right, but you also don't want to try and suggest that you think you are better than others because you follow this practice. The kind of Christianity that one sees reflected in American media is very pervasive, aggressive and intolerant. People have a negative image of Christians.

Because I happen to be a gay Christian, a lot of people think that I must have psychological problems because you couldn't possibly be a real Christian and a self-respecting gay man at the same time. But I am both. And I am not the least bit ashamed of my homosexuality, and I'm also not ashamed of being a Christian. I've come to reconcile the two and I think they can be reconciled.

Judith Holzman – Jewish

I had an interesting incident quite a few years ago. I was actually assessing an account, and I appeared before an assessment officer, and I wasn't comfortable with the Bible they presented to me to swear my oath on, because it was a New Testament. So I asked for an Old Testament. I opened it to make sure that it was

strictly Old Testament. And I opened it the way we do our prayer books, which is right to left. And we read literally what some call backwards. And the assessment officer got very angry with me and said, "Don't you know how to open a prayer book?" I waited until the end of the day to say to him, "We read in the Hebrew language. We open our prayer books differently, and we do read what you would term backwards. But this is part of our faith. We have been doing this for 5,000 years, and it is not going to change. I feel uncomfortable with the way you treated me." And I left it at that. I now affirm instead because it's easier than explaining our practice regarding the prayer books. I affirm as if I was an agnostic, and that is how most Jews would behave in a court situation.

We also sometimes face challenges, for example on Jewish holidays, but the profession as a whole is, more and more, trying to respect other religious precepts. If someone needs a break because it's Eid or it's Diwali, or it's a Christian holiday or Jewish holiday, people tend to give each other a break.

Vinay Jain – Jain

The work that we do at a legal clinic is all related to social justice issues. So I don't question what I do and whether it is in line with my faith. It is related to the idea of non-violence. If you want to speak in a general sense, the confrontational adversarial nature of law, strictly speaking, goes against the idea of, non-violence. The confrontational nature of law is not my favourite thing, but I think that is because I am not a confrontational person generally. So I don't think that's related to the Jain religion specifically. If you ask me about how I would manage in the general legal profession if I weren't working in a legal clinic, it would be more difficult to answer. To me social justice is very important, and, I relate that to the Jain faith. Consequently, it would be more difficult to practice if I questioned what I did. I do not think I would enjoy my legal work, if it was not related to poverty law.

Eric Nguyen - Buddhist

Out of respect for my clients and those who do not share the same belief system as I do, I do not display symbols of my faith at my office. In terms of the challenges in the legal profession, one issue that is difficult is that there are not many Buddhist lawyers. I think this may be related to the tenets of Buddhism, which teach you to not be materialistic and to try to help people as much as you can. And it is an altruistic religion. Many Buddhist people are poor and it is often a challenge for Buddhist people to get into law school and to become lawyers.

Amina Sherazee - Muslim

I think one of the biggest challenges is that others make my difference invisible. As a successful lawyer, people often do not want to acknowledge that I am also Muslim, and they pretend that I am not. When I bring up the fact that I am Muslim, others will often change the subject matter resulting in making my identity as a Muslim invisible. I am also marginalized because of the types of cases I tend to take on. Sometimes I think I may be marginalized in the professional setting because I do not drink alcohol. Even when I participate in social activities, I am often marginalized.

Question 4 - Can you explain how your faith/spiritual belief(s) promote principles of equality including gender equality?

Anita Balakrishna - Hindu

Hinduism is a very open religion and the main teachings, if you follow the ancient Scriptures and texts - which is what I believe in - is about, treating everyone as equal and how everyone is made the same. In terms of women, there are in our history, in our books and in our mythology, very prominent and strong women who are treated as equals. Of course, there are contradictory mythologies as well. But I think if you go to the ancient Scriptures and texts you see that they promote gender equality and the equality of treatment for everyone.

Kiran Bhinder - Sikh

The practice of Sikhism is a testament to the remarkable and rousing past of the brave daughters of Punjab. Sikhism has not only preached, but more importantly practised women's entitlement to equal consideration, respect and justice. Sikhism took revolutionary steps to enshrine the rights of women in scripture, and challenged patriarchal oppression well over 500 years ago, despite overwhelming cultural influences that supported misogyny. The fact that more than half the manjis (similar to bishops) appointed by Guru Amar Das Ji (Third Guru- 1552-1574) were to women is significant when you consider that these exceptional women were put in charge of the proliferation of Sikhism, with full responsibility for the content of the preaching. Women were also charged with the responsibility of collecting revenues and making decisions for the welfare of each diocese. This was especially considerable at a time when there were practices of sati (burning wives alive along with the bodies of their deceased husbands), female infanticide, and purdah (covering of a woman's face) that the Gurus vigorously condemned.

There are also historical examples of Sikh women in leadership roles in the political and military sphere. Guru Gobind Singh Ji's (Tenth Guru) bodyguard was a woman, Mayee Bhag Kaur, and she also led a battle against oppressors of that time. The reign of the Khalsa Kingdom of Punjab was founded on the statesmanship of a woman, Sardarni Sada Kaur. There is no limitation or distinction made in the practice of Sikhism for a woman. Through leading congregations, community service, distinguished military service, and leadership roles, Sikh women have always stood equally to Sikh men in all Sikh practices and during vital events. It is the countless Sikh women throughout our history who have planted the seed and inspired love for Sikhism in our children and communities. We believe the teachings and practices of our Gurus, starting more

than 500 years ago, were exemplary of what feminism stands for today- the equality of genders. This is evident in the work of Sikh women today.

John Borrows – Aboriginal

I would not describe equality as being a motivation or outcome of my spiritual beliefs. Living by principles of harmony, reciprocity, sharing and mutuality would come closer to my view of things. I believe this promotes a higher goal than gender equality.

Doug Elliott– Christian

I'm very committed to equality. There are some people who think that being a Christian means that you are against equal rights, that -- as I put it, some people seem to think that God is against human rights. I don't believe that. There has always been a school of thought that has embraced the principle of equality as not just consistent with Christianity but emerging from Christianity. One of the messages that Christ gave to his fellow Jews, who were fairly intolerant of non-Jews in his day, is that he never turned anyone away. He had Mary Magdalene famously as one of his companions. And he welcomed children to come to him who were not Jews as full human beings. He insisted that people were all equal and that, we're all God's children. Later the view that somewhere in the enlightenment there was this contest between faith and reason, and some people saw faith as the enemy of reason and sought to repress religious faith because they thought it was the enemy of democracy and human rights. Given the history of intolerance of religious faith up until that time in Europe there was some historical justification for that concern. But there were others. John Adams, for example, said that he believed that the doctrine of equality was entirely based on the Christian doctrine that we are all children of the same father, all created equal in dignity by him and all entitled to equal respect for our self-love. I think John Adams had it absolutely right. He has been followed in later years by people like William Wilberforce who, based on his religious principles, decided that slavery was wrong and fought hard to eliminate slavery, based on his religious beliefs. And then, of course, Desmond Tutu and Martin Luther King, who fought for equal rights.

I am very conscious of the issue of gender equality. I don't believe in the notion that, even today, women are supposed to be subservient to men in a marriage, or the notion that women have to be confined to a lesser role because of their gender. I always look at how Christ himself lived his life and what he had to say. And he never once suggested that women should have second-class status. In fact, there is the famous scene where a woman was going to be stoned for committing adultery and he stepped in and stopped them, because he felt it was unjust. And he took Mary Magdalene in as one of his closest companions, and she was the first one to see him after he was resurrected. She was the first one who had the revelation. As Reverend Hawks said, "She's really the first Christian." So to me,

I think that Christianity is absolutely not only consistent with equality but for me it's very much integral to my belief in equality of all persons regardless of gender or sexual orientation or race.

Not once did Jesus Christ in his lifetime ever say to someone, "Go away, you're the wrong colour, you're the wrong faith, you're the wrong..." something. He always welcomed people. He always treated them with love and respect. When he was asked about the law (Halacha), he said there are only two rules. "Love God, and love your fellow man as yourself." Christ never said anyone was less than him.

Judith Holzman – Jewish

In our religion, when we divorce, the man must grant to the woman a *Get*. The concept of *Get* is not particularly equal. It gives a certain leg up to men. On the other hand, our religion is based on the mother. To be a Jew, you have to be the child of a Jewish mother, in effect the religion goes through the mother. However, the man controls the divorce process. Given that the religion goes through the mother to a certain extent, it is a matriarchal religion. A Jewish household works through the woman, and in fact the man has strictly the obligation for 500 some odd good deeds. A woman has only a handful, to keep a Jewish home and light the Sabbath candles. Her obligations are summed up so neatly and so clearly; it is an important obligation to maintain a Jewish household. This is considered so overwhelming in importance that a handful of obligations are more than a man's 500 obligations.

It is written in the Halacha, the written code of law, that a man must treat his wife well. A man has an obligation to return home as much as his profession allows. He is supposed to recognize and appreciate his wife and children. A man must treasure his wife. If she is to bear his children, he must make the bearing of them sweet. In relations between men and women, a man is supposed to treat the woman with respect.

We are supposed to respect all other religions. We are supposed to treat them with the same respect we'd want to be accorded. We are supposed to promote that if we have a day off due to religion, they have a day off. In my office, because others work on my Jewish holidays, I work their Christian holidays, and we actually set up extra time off around and surrounding Christian holidays, so that everyone enjoys their holidays. And again, it would be the same thing if I had a Muslim employee who practices Ramadan or celebrates the Eid holiday, or if a Hindu employee had Diwali celebrations.

Vinay Jain – Jain

I believe that gender equality is of course a social justice issue. Therefore, it's related to the work that I do. I interpret non-violence very broadly. That includes a lack of commercialism and consumerism, and non-violence to include a lack of racism and sexism. I think it promotes the idea of equality, but I think most religions would generally say they promote equality. Jainism also supports the idea of equality of all living things. It is pure vegetarianism and respect for the most living part of the plant. It promotes equality quite broadly. Jain families do not look or appear different than any other families and we often see, like in other families, the classic division of labour at home and the classic inequalities.

Eric Nguyen - Buddhist

In Buddhism we believe that everyone is equal. Of course, the goal of Buddhism is self-enlightenment, but the faith does recognize that there are differences and that not everyone is at the same level of enlightenment. However, everyone can reach the same goals, should they choose to. In my office, most of my staff members are female. Because of the fact that we believe in equality, we incorporate that concept into our practice, in the way that we treat our clients, our staff, other members in the profession, and also, judges.

Amina Sherazee - Muslim

In Canada, the Charter reinforces values that are consistent with most religions. Everyone is equal before God because God created us all equally. For me, that is not contradictory to my religion. However, I think religious institutions, not my faith or spiritual belief, are still grappling with the issue of gender equality in all spheres of existence, especially, the political sphere. Women are respected and held in high regard if they conform to the socially constructed image of a “good Muslim woman”. To the extent that women deviate from this highly prescribed construction, they are often marginalized both within mainstream society and the traditional Muslim community. I think however, as a feminist who has studied gender equality in world religions, this is not restricted only to women in Muslim communities. When I say mainstream, I refer to the larger Canadian multicultural state and society that tends to essentialize “Muslims”. The idea of a representative Muslim according to the Canadian state and institutions depends heavily on stereotypes. So, typically if the Canadian state or an institution wants Muslim representation, they generally seek out a person or organization that is very conservative and conforms to stereotypes. For example if they want a Muslim woman they will ask a woman who wears the hijab instead of one who does not because that is their idea of a “representative Muslim”. In this way there is inequality between Muslims being perpetuated by the State, institutions and organizations.

Question 5 - Do you think there are heightened challenges for women or other members of your faith or spiritual community?

Anita Balakrishna - Hindu

I think there are. One problem is that we are often placed in social situations where we are not understood. We are asked where we are from or what religion we belong to. It is a problem to be identified because you are a member of a minority religion or a specific ethnic community or from a different cultural background, instead of being seen as a woman. I have often been asked to define myself because of my visibility.

I think Hindu practices are very individualistic and people practice in very different ways. Within, my Hindu community women are respected for being in the legal profession and for doing this kind of work. Hinduism is also a religion that values equality, justice and service to others. Since more and more women are getting involved in the legal profession, it is becoming a very respected profession for women in my community. The only challenge that I see is the expectations that women of my faith should be successful in their careers but also in looking after their families and being involved in the community.

Kiran Bhinder - Sikh

I don't think the challenges are any more particular or severe than the challenges that women face generally within the Western community itself, whether in the legal profession or any profession. I was speaking to other Sikh women friends and we feel that, at times, we are more disadvantaged because of our gender than our faith. So within the community itself, the Sikh faith very strongly teaches and practices equality of women, and we don't have any restrictions on our profession whatsoever.

John Borrows – Aboriginal

There are heightened challenges for Indigenous women in the legal profession. Many Aboriginal women lawyers are single mothers and they lack child-care support, appropriate mentorship and other support, and they experience a higher rate of poverty than others.

Doug Elliott– Christian

I think that the two groups that have the biggest challenge in Christianity are women and gay and lesbian people. Historically, there is a contradictory trend in Christianity. On the one hand, in the historic Catholic Church, the Virgin Mary was venerated as a very important figure, of equal and some might even say greater importance than Jesus Christ. The cult of Mary has historically been very important in the Catholic Church. On the other hand, the official veneration of this holy woman is contrasted with the very negative approach to the rights of women. In general they have been excluded from an important role in the Catholic Church, have had a very limited role, and had been told that in family life they are also supposed to have a very limited role. Although that remains a problem, it has improved in various denominations of Christianity. There is a historic legacy of gender inequality that I think all Christian churches have to overcome. Even for those who are more progressive Christians, we have to be conscious of the fact that that history is there in terms of how it can invisibly influence our own thinking which we have to overcome.

Historically, racism has not been a big issue within the Christian Church with the exception of those two strange exceptions, the Apartheid situation, where one branch of the Christian Church supported racism and the Southern United States Christians and segregation in the South. I was always taught that race was irrelevant to being a Christian. But the other aspect is the historic anti-Semitism that is a horrible legacy of Christianity. There was an appalling persecution of the Jews over the centuries. And I think as Christians we always have to work to overcome that stain on our faith and to reach out to our Jewish brothers and sisters, and -- because I have some Jewish ancestry myself, of which I'm very proud, I think it specially resonates with me.

Gays and lesbians have always been weak in the church, and historically, if they were gay and lesbians they were killed. That was the response of the church historically. What gays and lesbians historically were told, and are still told by some Christian churches, is that "You deserve to die," and that is the worst possible sin imaginable, and burning at the stake is the best way of dealing with it. In more modern times, now, the Catholic church, for example, no longer advocates burning at the stake for homosexuality, but it does say that we're inherently immoral, that the recognition of our relationship, the legal recognition of our relationships, is the legalization of evil, and that we are to be pitied. But not hated. And while violence is not to be encouraged against us, it's understandable that we are victims of violence, when we demand rights to which we have no right. Those kinds of statements I know are deeply offensive to many people including gay and lesbian Catholics.

Judith Holzman – Jewish

It is difficult for women. My class at law school was 23 per cent women. They didn't even have washrooms for us, they didn't know what to do with us. The associate dean told us we were of no use on his football team. So that doesn't have to do with religion that has to do with gender. I think gender equality has come a long way since then. Based on religious precepts, we're taught to have pride in ourselves, so that we are obligated to make sure that others treat us with respect. So in a way, the religion is helpful in promoting gender equality. Because if you're told constantly that you have self-worth, you believe in your self-worth.

I think that there are heightened challenges for newcomers based on language difficulties and the fact that different religions may be less known here and therefore people are less respectful. For example, I can remember as a parent dealing with other parents when my children were small, little things that would make other people comfortable such as reassuring them that the meat was Halal that was going to be served at a party or a get-together. And you just quietly deal with peoples' needs.

Vinay Jain – Jain

Because it is predominantly an Indian religion, there are heightened challenges because we are a minority, not because of Jainism specifically. I think that there are the same challenges as any other group in our community. The challenges are the same as for any other minority groups in our community. For example, women still face the same difficulties within our religion as they do elsewhere notwithstanding the fact that Jainism is about non-violence. Gay or lesbian couples face the same challenges with the Jain faith as they would elsewhere. The writings and the practices are one thing, but the cultural institutions go back many centuries and are difficult to change.

Eric Nguyen - Buddhist

Not so much as far as gender issues are concerned because we believe in equality based on gender. The thing that I think is a challenge is the fact that most Buddhists, or at least people who practise Buddhism, tend to be poor because they believe in helping others, donating what they earn, looking out for other people. Because of their altruistic nature, they can't compete or at least get into law school where it's very demanding financially. I think that is one of the challenges to entering the profession. Actually, equity seeking groups all face different challenges. For example, because I am gay, one of the challenges is not so much financial. It is harder to get into law school if you belong to a minority group, such as being gay and being a member of a minority religious faith. I am a visible minority, I was not born in Canada, I was born in Viet Nam, I am gay and I am Buddhist. When I went to law school it was extremely difficult. There are challenges in being a lawyer. Being a sole practitioner is difficult, because I have

to maintain a level of income to support my staff, everybody that is affiliated with me and myself. My religion, sexual orientation and ethnicity affect my practice. My Buddhist nature affects it in that I try to help people. I often offer pro bono services because I feel there is injustice and especially within the Vietnamese community, there is very few of us. There is more demand for services in the community than is available.

Amina Sherazee - Muslim

Yes, of course there are challenges and barriers, such as overcoming the patriarchal vestiges of white Canadian culture. There are challenges for same sex couples and gays and lesbians in the Muslim community. I think there remains inequality within the Muslim community between men and women and between rich and poor, which is no different then our general society in Canada. For example, I feel that if I do not conform to a traditional, socially constructed, religiously sanctioned idea of "woman", I am a misfit or I am marginalized. So women who forge their own religious identity face the risk of rejection by mainstream society. Again this is also not uncommon for women in other religions. The challenge is not just for women but also for men to also break the mould that has been formed for them. It is a larger question of gender relations, not just women's equality. When we talk about women being equal to men – which men do we want them to be equal to, because no all men are equal. Therefore I think we need to frame the discussion of gender equality in Muslim communities as one of respect for the human rights and dignity of both sexes.

Question 6 - How can the legal system/profession assist members of your faith/spiritual community?

Anita Balakrishna - Hindu

The legal profession may assist members of my faith by accommodating and being aware of our differences. I mean by accommodating, respecting peoples' needs or beliefs and accommodating them in whatever way possible. For example, if someone is hosting a legal forum, there should be vegetarian or non-beef options available for people who are Hindu. Also, in terms of the legal system as a whole, it is important to be aware of our visibility, the problems associated with that, the fact that we are targeted or racially profiled or looked upon differently or judged because of our differences. Respecting the fact that members of the Hindu faith might see things differently than others, while being questioned in court and that our religion may have an impact on our answers.

Kiran Bhinder - Sikh

One of the concerns we have is the right for confirmed/initiated Sikhs to wear their articles of faith throughout Canadian society, not only in the courtrooms, but also when they are at schools or within the community. This is our freedom of religion. Also, other issues that I believe would be the same as any minority communities would be issues of access to justice, being part of the dialogue of the larger mainstream community toward initiating new policies. Increasing awareness and education for members of the community would be valuable.

John Borrows – Aboriginal

Aboriginal specific equity initiatives and support are of great assistance. For example, the establishment of the Aboriginal Issues Coordinator position at the Law Society has led to tremendous increase in success and confidence among Aboriginal lawyers in Ontario. It has created an excellent, welcoming space and environment for Aboriginal peoples to overcome their struggles within the legal profession. There needs to be specific, targeted initiatives and space for Aboriginal peoples at law schools, law firms, the law society, etc.

Doug Elliott – Christian

There are structures that are there to help protect members of my faith community. I was involved in the same-sex marriage litigation, and the Ontario Court of Appeal ruled in our favour. That was a very physical example of the legal system protecting the members of my faith community. I think it's very encouraging that we have independent judges, and a Charter of Rights to protect people in my faith community.

In terms of the legal profession, the one thing that the legal profession could do is to encourage members of the legal profession to be respectful of various religious beliefs. Because the two dominant religious faiths in the legal profession historically have been Christianity and Judaism. A number of people in the legal profession are secular. Because of that, I think there is a perception that if you are a Jew or a Christian and a lawyer, then you are not religious. It would be nice if the profession tried to encourage more respectful and open-minded attitude. If somebody says, "Look, I can't work on or have a meeting with you on Sunday because I'm a Christian," don't cross-examine that person about it, or laugh at him or her.

Judith Holzman – Jewish

I think there has to be recognition that we're different. There are enough lawyers and judges, and senior people who don't practice my faith but are sensitive to the issues of my faith. We are established as a group. But there are other religions that are not as established and would benefit from assistance, for instance, the Aboriginal community. It's so hard for young lawyers in the Aboriginal community to break into the profession. I've listened to lectures by Aboriginal lawyers who were talking about how difficult it was to get accepted, to get jobs, to find jobs.

Vinay Jain – Jain

Respect for our dietary practices, such as providing more vegetarian food at functions. Otherwise, the legal profession has been accessible to me. There could be more accommodation to religious practices, such as when lawyers are fasting. In the Jain religion, we fast towards the end of the summer, and, sometimes people fast for up to seven days. I think more accommodation for those who fast and those who take time off for religious holidays would be appropriate. I think in Toronto people generally do accommodate different religions, but awareness of various religious practices is not as high in rural communities.

Eric Nguven - Buddhist

One way to assist would be to do outreach with individuals from the Buddhist faith to consider the legal profession as a career. But maybe we could identify Buddhist lawyers and create networking opportunities. Perhaps we could create a scholarship to assist Buddhist students.

Amina Sherazee - Muslim

Accommodation and recognition of religious practices, such as significant days and prayer times is a basic equal entitlement, which Muslims are not afforded. On a more systemic and long-term level, the appointment of Muslim judges would give Muslims an opportunity to be included in the decision-making process. Currently, there are very few non-white judges within the judiciary of this country. It is understandable that Muslims are not treated equally within the judicial system. For example, Muslims often receive indefinite detentions and are often denied due process. The lack of racial representation in the judiciary is a real failure in the part of a multi-cultural state such as Canada. Having a representative bench would be extremely valuable for the community and for Canadian society as a whole.

Question 7 Are there any other observations you would like to make?

Anita Balakrishna - Hindu

Being a Hindu is not difficult because I do not have to wear specific clothing to identify myself to my religion. Only my beliefs, the fact that I am brown skinned and the fact that I am a vegetarian may affect how others perceive me. It is more about having my opinion respected and not looked down upon or treated as irrelevant.

Kiran Bhinder - Sikh

Because our community today is more global in the sense that we are a community of diversity, it would be very useful for legal professionals to be more aware and attuned to global issues, different community perspectives and different community values. This would enable lawyers to increase communication with their clients, understanding of their clients' perspectives and views, and especially issues concerning articles of faith. When you see a Sikh, you immediately see that the person is a Sikh because of that person's articles of faith. It is important to really understand beyond what these articles mean, and this incorporates the views of respect, and the dialogue and relationship between a client and a lawyer.

John Borrows – Aboriginal

Aboriginal legal traditions are a part of the law of Canada. They have been recognized by the courts and given contemporary force. These laws often have a spiritual basis. There needs to be greater recognition for these laws and a stronger affirmation of the spirit and intent of the treaties that give expression to these beliefs. Treaties are constitutional agreements that paved the way for the creation of Canada. More acknowledgement and education to the public and profession would assist in developing this respect. How many non-Aboriginal peoples know the rights they received from treaties in Ontario, and how promises to share land and resources are linked to the deeper spiritual beliefs of the land's first inhabitants?

Doug Elliott – Christian

This initiative is very important, particularly with respect to anti-Semitism. I think there are two primary sources of anti-Semitism in our society, and we have to constantly struggle against them. One is the historical Christian anti-Semitism, which used to be awful. I've heard stories of Jewish friends who -- not in my

generation, but my parents' generation, would hide inside on Good Friday because people would come out of church and they would be looking for Jewish people to beat up because they killed Jesus. And I think Christians have to be conscious of that history, and work hard to overcome it and be very sensitive to anti-Semitism. One of the things we did at our church after the recent anti-Semitic attacks in the cemeteries, was to put up a big sign encouraging people to buy Israel bonds. It was a small gesture. And the other more troubling source of anti-Semitism and one that is more recent is the anti-Semitism that arises out of the Middle-Eastern conflict and the tensions between Muslims and Jews. Which of course in the Middle East is just rife with violence by one side against the other. I think that's going to be an ongoing challenge for us in Canada. I was mortified about what happened with the burning of the Jewish school in Montreal, and the defacing of Jewish gravestones, and so on. It's just absolutely appalling. I like the famous saying from a pastor in Germany: "First they came for the communists and I didn't worry about it because I wasn't a communist. And then they came for the gypsies, and I wasn't worried because I wasn't a gypsy, and then they came for the Jews, and I didn't worry because I wasn't a Jew. And then they came for me, and there was nobody who cared about me." I think if we are going to be, as the legal profession, committed to a rule of law and respect for minorities, we have to be vigilant about protecting all minorities and the rights of every single person. If for no other reason than in the long run, it's in our own self-interest. We all depend on the rule of law to protect the rights of every single person in this country.

Judith Holzman – Jewish

I think, as a group, lawyers have to be at the forefront of recognizing the rights of minority groups. And people of any particular minority group have to be sensitive to the needs of other minority groups. Since 9/11, there have been all kinds of issues relating to racial hatred. There are horrible stories about Muslim people being treated inappropriately because they are Muslim, or because they appear to be Muslim. Today, the hatred is against Semites, including Jews and Muslims. We are all Semites. We are cousin religions. Muslims and Jews are actually first cousins. You either have Abraham or Ibrahim, it's the same name.

Vinay Jain – Jain

I like the general principle of non-violence because I think there can be a lot of social justice analysis around that. Beyond that, the way people behave, the way Jains behave, I don't think is radically different than anyone else. We are vegetarian, but beyond that, the opposition to consumerism is not really followed. If people knew more about various religions and practices, they would respect people's beliefs and/or what they're doing. For example, during Ramadan, when Muslims fast, if people knew more about fasting, maybe they'd be a little bit more informed and try to accommodate it. Another example is the availability of a place to pray during Ramadan and sensitivity for those who are fasting. Jainism

is also concerned with lack of ego and that maybe difficult to reconcile with the practice of law.

Eric Nguyen - Buddhist

It would be very helpful to encourage those of the Buddhist faith to consider law as a career. I think it would help the profession as a whole to see an increase in the number of Buddhist lawyers.

Amina Sherazee - Muslim

There is still systemic racism within the institutions in this country. In addition to this, to be a Muslim in the post 9/11 climate is a challenge and the current laws make living as a Muslim immigrant or refugee very difficult. The invisibility of lawyers who work on social justice issues and deal with human rights and minority and religious rights is also an issue that needs to be addressed.

Appendix 1 – Biographies of Interviewees

Anita Balakrishna

Anita Balakrishna is Hindu and she is currently the lawyer at the South Asian Legal Clinic of Ontario, a legal clinic providing free legal services to low-income South Asians in the GTA. Ms Balakrishna completed her legal studies at Osgoode Hall Law School in Toronto, Ontario and went on to complete her articles with the Ontario Human Rights Commission. She was called to the Ontario Bar in July 2004. Ms Balakrishna's interests lie primarily in the area of immigration and refugee law, human rights law, welfare and income security issues, and improving access to justice.

Kiran Kaur Bhinder

Kiran Kaur Bhinder is a Sikh lawyer and works for Department of Justice Canada. She is currently providing litigation support as a member of the Government Counsel team for the Commission of Inquiry into the actions of Canadian officials in relation to Maher Arar. Ms. Bhinder completed her legal studies at the University of Ottawa Law School and went on to complete her articles with Department of Justice Canada in Ottawa, Ontario. She was called to the Ontario Bar in July 2003. She also writes in a weekly column in the Ottawa Citizen on the Sikh faith perspective on a variety of issues. Her current focus lies in criminal law, national security confidentiality claims, and legal policy work.

John Borrows

Professor Borrows is Anishinabe and a member of the Chippewa of the Nawash First Nation. He was appointed to the Faculty of Law at University of Victoria as Professor and Law Foundation Chair of Aboriginal Justice and Governance in 2001. Prior to joining the Faculty he taught at: the University of Toronto; the University of British Columbia as the Director of the First Nations Law Program; Osgoode Hall Law School as the Director of the Intensive Program in Lands, Resources and First Nations Governments; and, was a visiting professor at Arizona State University and Executive Director of the Indian Legal Program. His research interests are in Aboriginal law, constitutional law, and natural resources/environmental law.

Doug Elliott

Doug Elliott is a Christian lawyer who graduated from the University of Toronto in 1982, and was called to the Bar of Ontario in 1984. He is certified as a Specialist in Civil Litigation. He is a partner with the firm of Roy Elliott Kim O'Connor LLP. Mr. Elliott is well known for his advocacy, writing and lecturing on equality rights and class actions. He is one of Canada's leading legal experts on HIV / AIDS. He has been honoured with the Lawyer of the Year Award from ARCH and the Canadian AIDS Society's Leadership

award. Mr. Elliott has been before the Supreme Court of Canada on a number of occasions, where he represented the Canadian AIDS Society in *Canada v. Krever, Friend v. Albert, Little Sisters Bookstore v. Canada* and *Regina v. Latimer*. Mr. Elliott was part of the counsel team in *Parsons v. Canada*, which secured a \$1.5 billion settlement for persons contracting Hepatitis C through the blood supply. He represented the Metropolitan Community Church of Toronto in its successful equal marriage litigation for same-sex couples.

Judith Holzman

Judith Holzman is a Jewish lawyer called to the Bar in 1978. She has practiced in the area of family law since that time and has also taken mediation and collaborative law training. She has worked on the amendments to the *Family Law Act* and the *Divorce Act* to do with the right to religious divorce (removing the bars to re-marriage). She has also been involved extensively in the community with legal education, involving organizations as diverse as New Directions (now Family Services Association) and Council Fire. She has also been involved in legal education on radio, television and in print.

Vinay Jain

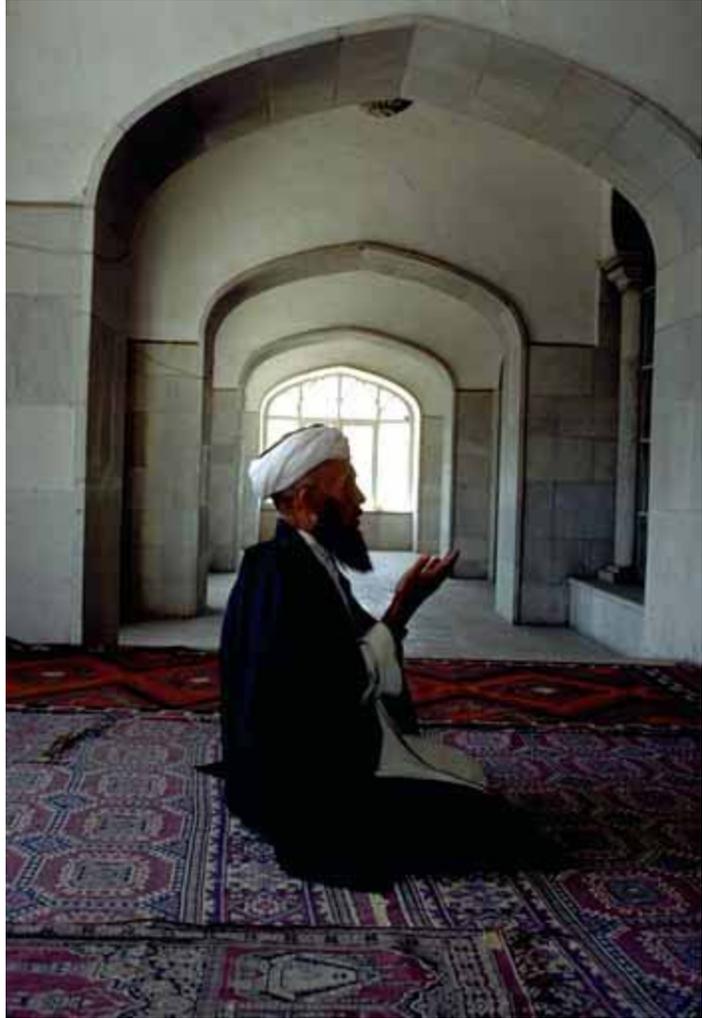
Vinay Jain is a Jain lawyer. He has been the staff lawyer at Dundurn Community Legal Services in Hamilton Ontario, since 2000. Mr. Jain attended the University of Ottawa and was called to the Bar of Ontario in 1996. From 1996 to 1997 he volunteered with the Hamilton Mountain Community and Legal Services and at ARCH. From 1997 to 2000, Mr. Jain offered free legal services to low income Ontarians as the staff lawyer at Renfrew County Legal Clinic. Mr. Jain has experience representing low income clients in areas of social assistance, housing, CPP, Workers Compensation, Criminal Injuries Board, Employment, and Human Rights.

Eric Nguven

Eric Nguven is a Buddhist lawyer who is in private practice in Mississauga. Mr. Nguven attended Osgoode Hall Law School in Toronto and was called to the Bar in 2002. He completed his articles with Miller, Maki in Sudbury and is Currently the Chair of the Metro Chinese and Southeast Asian Legal Clinic, a legal clinic providing free legal services to low-income people of the Laoasian, Cambodian, Chinese and Vietnamese communities in the GTA. Although his areas of practice include Family, Real Estate and Corporate/Commercial, his interest and pro-bono work revolves around with Mental Health Law.

Amina Sherazee

Amina Sherazee is a Muslim lawyer who was called to the Bar in 2000, and practiced as a civil litigator until joining Downtown Legal Services at the University of Toronto, Faculty of Law in September of 2001. Her experience includes appearing before the federal and provincial courts and various administrative tribunals, including the IRB, the OLRB, Governing Council of University of Toronto and the Criminal Injuries Compensation Board. She also has a wide range of experience with community organizations and social justice groups including women's groups. She has acted as counsel for a number of organizations including CAF, CCMW and MCC. She supervises students handling immigration and refugee, employment, academic appeals and administrative law.



**A man praying in a mosque in Kabul, Afghanistan.
UN Photo# 156490C**

**Photo taken from the United Nations website at <http://www.un.org/av/photo/>
UN/DPI Photo**